PUBLIC COMPLAINTS COMMISSIONER

REPORT EVALUATING THE EFFECTIVENESS
OF THE SYSTEM FOR HANDLING COMPLAINTS
FROM MEMBERS OF THE PUBLIC AGAINST POLICE OFFICERS
ON THE METROPOLITAN TORONTO POLICE FORCE

1981–1984

TABLE OF CONTENTS

PAGE

I. HISTORICAL BACKGROUND.............................. 1

II. THE FUNCTIONS OF THE OFFICE OF THE PUBLIC COMPLAINTS COMMISSIONER AND THE POLICE COMPLAINTS BOARDS........................ 6

- A. Public Complaints Commissioner................. 6
  - 1. Receipt of Complaints....................... 6
  - 2. Investigation of Complaints................. 7
  - 3. Resolution of Complaints.................... 7
  - 4. Review Process.............................. 8
  - 5. Decision to Order a Police Complaints Board Hearing............................ 9
  - 6. Chairman of Police Complaints Board......... 9
  - 7. Recommendations............................. 10
  - 8. Evaluation and Reporting.................... 10
  - 9. Special Functions........................... 10
- B. Police Complaints Board........................ 11
  - 1. Hearings.................................... 11
  - 2. Appeals..................................... 12
  - 3. Reports..................................... 12

III. SIGNIFICANT ACTIVITIES -- 1981-1984................. 13

- A. Changes to the Former Police Complaints System............................ 13
- B. Receipt, Investigation, Resolution and Review of Complaints....................... 16
  - 1. Intake...................................... 16
  - 2. Monitoring.................................. 17
  - 3. Investigation............................... 18
  - 4. Review...................................... 19

PAGE

C. Board Hearings.............................. 28

D. Special Functions.............................. 30

  1. Hold-up Squad Investigation............... 31
  2. Morrish Road Investigation................ 37
  3. Jane-Finch Initiatives.................... 44
  4. Regent Park Complaints.................... 46

E. Research and Statistics........................ 49

  1. Improving Methods of Processing Complaints............................. 50
  2. Identification of Patterns and Trends in Complaints.................... 52

IV. THE MAJOR GOALS OF THE PUBLIC COMPLAINTS COMMISSION AND PROGRESS TOWARD THEM................. 53

A. Effectiveness in Handling Complaints........... 53

  1. Credibiltiy.............................. 55
  2. Visibility............................... 63
  3. Accessibility............................ 66
  4. Indicators of Progress Towards a More Effective Complaints System........ 67

B. Preventing Misconduct and Preventing Existing Problems from Escalating.............. 70

  1. Prevention of Misconduct................. 72
  2. Preventing Existing Problems from Escalating......................... 75
  3. Indicators of Progress Towards the Prevention of Misconduct or Misunderstanding........................ 76

V. ASSESSMENTS FROM OTHER JURISDICTIONS................ 79

PAGE

VI RESEARCH AND STATISTICS.............................. 80

A. Introduction - Statistics as an Aid to Evaluation.............................. 80

B. The Database: 1981 - 1983.......................... 81

C. Research Findings Gathered from Complaint Recording Forms........................ 83

1. Where Complaints Filed..................... 84
2. Time and Date of Complaint Incident....... 84

TABLE 1 LOCATION WHERE COMPLAINTS FILED.......................... 85
TABLE 2 DAY COMPLAINT INCIDENT OCCURRED........................ 87
TABLE 3 DAY COMPLAINT FILED............. 88
TABLE 4 TIME COMPLAINT INCIDENT OCCURRED........................ 89

3. Time From Date of Occurrence to Date of Filing.......................... 90
4. Location of Complaint Incident............ 90

TABLE 5 TIME FROM DATE OF OCCURRENCE TO DATE OF FILING............... 91
TABLE 6 LOCATION OF COMPLAINT INCIDENTS....................... 92

5. Police Divisions Involved in Complaints............................. 93

TABLE 7 POLICE DIVISION IN WHICH COMPLAINTS OCCURRED............. 94

6. Data on Complainants...................... 95

TABLE 8 AGE OF COMPLAINANTS............. 96
TABLE 9 RESIDENCE OF COMPLAINANTS....... 97

7. Types of Complaint Allegations............ 98
8. Minority Aspects of Complainants.......... 98

TABLE 10 TYPES OF COMPLAINT ALLEGATIONS FILED............... 99

PAGE

9. Precipitating Factors....................100
10. Alleged Injuries and Damages..............100

TABLE 11 FACTORS PRECIPITATING COMPLAINTS........................101
TABLE 12 INJURIES TO COMPLAINANTS........103

11. Photographs................................104

D. Dispositions of Complaints by the Chief of Police................................105

TABLE 13 PHOTOGRAPHS TAKEN OF INJURIES ALLEGED TO HAVE RESULTED FROM POLICE MISCONDUCT......................106
TABLE 14 DISPOSITION OF COMPLAINTS BY THE CHIEF OF POLICE..........107

1. Formal Resolutions.........................108

TABLE 15 ANALYSIS OF FORMAL RESOLUTIONS..110

2. Informal Resolutions.......................111
3. Withdrawals................................112

E. Requests For Review by the Public Complaints Commissioner.........................114

TABLE 16 OUTCOME OF REVIEW OF COMPLAINT BY PUBLIC COMPLAINTS COMMISSIONER.........115

F. Length of Time Between Various Stages in the Complaints Process.....................116

1. Time from Date of Complaint Filed to Date Copy Received at Public Complaints Commission..................116

TABLE 17 TIME FROM DATE COMPLAINT FILED TO DATE COPY RECEIVED BY P.C.C........................117

2. Time from Complaints Filing to Interim Report.........................118

PAGE

TABLE 18 TIME FROM COMPLAINT FILING TO INTERIM REPORT........119

3. Time from Complaint Filing to Final Report and Chief's Decision.............120

TABLE 19 TIME FROM COMPLAINT FILING TO FINAL REPORT..........121

4. Time from Chief's Decision to Request for Review......................122

TABLE 20 TIME FROM FINAL REPORT TO CHIEF'S DECISION.............123

TABLE 21 TIME FROM CHIEF'S DECISION TO REQUEST FOR REVIEW...........................124

5. Time from Request for Review to Decision by Public Complaints Commissioner.............................125

TABLE 22 TIME FROM REQUEST FOR REVIEW TO P.C.C. DECISION.......126

G. Police Officers Involved in Complaints.........127

1. Rank of Police Officers Involved in Complaints...........................128

TABLE 23 NUMBER OF POLICE OFFICERS INVOLVED PER COMPLAINT..........129

2. Years of Service for Police Officers Involved in Complaints..................130

3. Dispositions for Officers Involved in Complaints...........................130

TABLE 24 RANK OF POLICE OFFICERS INVOLVED IN COMPLAINTS..........131

TABLE 25 YEARS OF SERVICE FOR OFFICERS NAMED IN COMPLAINTS......................132

PAGE

H. Criminal Charges....133

1. Criminal Charges Against Complainant....133

TABLE 26 DISPOSITIONS MADE BY CHIEF OF POLICE FOR OFFICERS INVOLVED IN COMPLAINTS....134

TABLE 27 CRIMINAL CHARGES LAID BY POLICE AGAINST COMPLAINANTS....135

2. Criminal Charges Against Police Officers....136

VII Appendices

REPORT EVALUATING THE EFFECTIVENESS OF THE SYSTEM FOR HANDLING COMPLAINTS FROM MEMBERS OF THE PUBLIC AGAINST POLICE OFFICERS ON THE METROPOLITAN TORONTO POLICE FORCE

1981 - 1984

The purpose of this report is threefold. Following an outline of the history of the legislation, it will briefly delineate the functions of the Office of the Public Complaints Commissioner as prescribed by the Metropolitan Police Force Complaints Project Act, 1981. Secondly, it will describe the significant activities of the Office from December, 1981 to March, 1984. Thirdly, it will address the major goals of the project and discuss progress towards these goals.

I. HISTORICAL BACKGROUND

Proclamation of the legislation bringing into being the Office of the Public Complaints Commissioner (hereafter referred to as the P.C.C) and the Police Complaints Board on December 21, 1981, was the culmination of seven years of frequent requests for such legislation by municipalities, high-profile community organizations, media, the Opposition, and government-appointed studies. This legislation and the present operation of the P.C.C. has satisfied the majority of concerns expressed. There is now in place a formal, independent system for reviewing public complaints against the police.

In 1974, after a series of highly publicized complaints involving the actions and activities of officers of the Metropolitan Toronto Police Force, Arthur Maloney, Q.C. was appointed to study police complaints procedures. Mr. Maloney recommended the appointment of an independent civilian commissioner of complaints and a number of other initiatives that are now found in the current activities of the P.C.C. This was the first of four major studies dealing with the need for an independent civilian review agency.

In 1976, again under considerable pressure from the public and the media, the Ontario Government appointed Mr. Justice Donald Morand to head the Royal Commission into Metropolitan Toronto Police Practices. The Commissioner called upon the province to set up an independent civilian review agency, as recommended in the Maloney Report.

In 1977, because or increasing concern in the area of race relations by governmental organizations and visible minority groups, particularly as it related to policing in Metropolitan Toronto, Metro Council appointed Walter Pitman to conduct a study of race relations. His report strongly urged the province to carry out the recommendations contained in the Morand Report as soon as possible, because of eroding confidence of the visible minority communities toward established authorities.

In that year, the then Solicitor General John McBeth introduced a Bill which constituted the first attempt to legislate civilian involvement in the police complaints procedure. That Bill did not receive third reading.

In 1978 and 1979, the media and a number of citizens' organizations continued to voice concerns over the existing complaints bureau and the wholly internal procedure under the Police Act. Calls for an independent citizens' complaint procedure were renewed.

In October, 1979, Cardinal Carter submitted a report to Metropolitan Toronto Council. His Eminence's report was sought because of "an upsurge in tension created by individual events and by a growing apprehension on the part of visible minorities ... that their rights were either infringed upon (by the police) or, at the very least, downgraded". Cardinal Carter also recommended the formation of a civilian complaint component in the police complaints procedure, and advocated many of the proposals contained in the Maloney report.

Also in 1979, the Attorney General/Solicitor General, the Hon. R. Roy McMurtry appointed Sidney B. Linden, Q.C., to review complaint procedures in Ontario and initiatives taken in other jurisdictions in Canada and elsewhere.

In 1980, the Metropolitan Toronto mayors attended a meeting with the Attorney General/Solicitor General to discuss the need for a new public complaints system. It was agreed that legislation establishing an independent review of public complaints against the Metropolitan Toronto Police Force should be implemented immediately.

When legislation introduced in 1980 failed to win the support of the legislature, Metro Council asked the province to endorse the Concept of a Public Complaints Commissioner and appoint such a person immediately. Racial tensions in certain parts of the city were running extremely high and violence was not out of the question.

In the spring of 1981, at a time of concern over the deteriorating relationship between the police and segments of the public, legislation was re-introduced.

By the summer of 1981, there was considerable public concern that racial tension in Toronto could lead to violence. There were indications that visible minority groups were so concerned about established police procedures that one incident involving the police could spark violence. Accordingly, the Attorney General/ Solicitor General announced the appointment of Sidney Linden, Q.C. as Public Complaints Commissioner. The decision to appoint Mr. Linden and to have him receive complaints on an informal basis prior to the enactment of legislation was made at the request of the Metropolitan Toronto Chairman, Metro Mayors and the Chairman of the Metropolitan Board of Commissioners of Police, and with the cooperation of the police.

The new legislation received third reading on November 17, 1981, after some 40 witnesses appeared before the Standing Committee on Administration of Justice during 18 days of clause-by-clause analysis of the bill. One submission alone represented a coalition of 40 ethnic and minority groups.

The Act was proclaimed on December 20, 1981.

II. THE FUNCTIONS OF THE OFFICE OF THE PUBLIC COMPLAINTS COMMISSIONER AND THE POLICE COMPLAINTS BOARDS

A. Public Complaints Commissioner

The Public Complaints Commissioner employs a staff of seventeen, which includes clerical and secretarial staff. It also includes a Director of Administrative and Legal services and an Executive Assistant, a Director of Investigation, eight civilian Investigators and a full-time Researcher in charge of compiling statistics. The major responsibilities of the Public Complaints Commissioner and his office are as follows:

1. Receipt of Complaints

A citizen may lodge his or her complaint directly with the P.C.C. A citizen may also lodge a complaint at a police station or the Public Complaints Investigation Bureau of the Metropolitan Toronto Police Force. In these latter two situations, a copy of the complaint is forwarded forthwith to the P.C.C.

2. Investigation of Complaints

The P.C.C. has the authority to investigate the allegations in the complaint thirty days after the complaint is received, or earlier if there are reasonable grounds to believe that there has been undue delay or other exceptional circumstances in the conduct of the initial police investigation.

The P.C.C. and the complainant receive interim reports on the police investigation every thirty days and a final report when the investigation is completed. Through this procedure, the P.C.C. is able to monitor every investigation done by the police.

Upon receipt of a copy of the final investigation report, the Commissioner may request the Chief of Police to cause further investigation to be conducted into the complaint.

3. Resolution of Complaints

A complaint may be resolved informally by the police during the course of or prior to a formal investigation. In these situations, a record of the informal resolution is forwarded to the P.C.C. The P.C.C. reviews the record of the informal resolution and may, after such review, request that further investigation be done by the police.

The Commissioner can also resolve a complaint informally at certain stages in the process.

4. Review Process

Once the investigation is completed, the Chief of Police (or his designate) decides what, if any, further action should be taken.

A complainant who is not satisfied with the decision made by the Chief of Police's designate has the right to have the P.C.C. review the matter. The complainant is informed of this right in the letter from the Chief of Police's designate.

As well, if the Chief of Police has caused disciplinary proceedings to be taken under the Police Act and the complainant is not satisfied with the decision made in the disciplinary proceedings, the complainant has the right to request the P.C.C. to review the matter.

The review by the P.C.C. may involve further investigation into the allegations made by the complainant.

5. Decision to Order a Police Complaints Board Hearing

After completing his review, the Commissioner may order a hearing before a Board composed of private citizens if he believes that, in the public interest, such a hearing is required, or he may decide to take no further action.

Where his decision is to take no further action, the Commissioner must give his reasons therefor, in writing, to both the subject officer and the complainant.

6. Chairman of Police Complaints Board

The Public Complaints Commissioner is the Chairman of the Police Complaints Board and has general supervision and direction over the conduct of the affairs of the Board. It is his duty to arrange the sittings of the Board and to assign members to conduct hearings as circumstances require.

The Commissioner must decide whether the complaint alleges misconduct by the police officer that is of a minor nature or serious nature. In the former case, he will assign one member of the Board who has had training in law to sit alone to conduct the hearing. In the latter case, he must assign three members of the Board to conduct the hearing. The chairman of every three-person panel must have training in law.

7. Recommendations

Where, after completing a review, the Commissioner is of the opinion that a police practice or procedure should be altered, he must report his opinion and recommendations to the Attorney General, the Ontario Police Commission, the Metropolitan Board of Commissioners of Police and the Chief of Police.

8. Evaluation and Reporting

The P.C.C. must monitor the handling of complaints by the Police Complaints Investigation Bureau and the Chief of Police. The Commissioner must also evaluate the effectiveness of the system for handling complaints and report annually to the Attorney General.

9. Special Functions

In addition to the complaint monitoring and review process, the Public Complaints Commissioner has undertaken special projects related to problems in police/community relations. One such project was the Hold-Up Squad investigation. Another is a process of mediation between representatives of the Regent Park community, and the Police Division responsible for that area of the city. This mediation was undertaken, at the request of both community representatives and the Chief of Police, to facilitate communication between the police and the community about perceived problems in policing the area.

These and other activities of the P.C.C. are further described later in this report, in the section on Significant Activities, 1981-1984.

B. Police Complaints Board

The major responsibilities of the Police Complaints Board are as follows:

1. Hearings

The Board must hold hearings when they are ordered by the Commissioner, or when the Chief of Police refers a matter to the Board for a hearing. Hearings are similar in nature to labour relations tribunals. The Public Complaints Commissioner is responsible for appointing counsel to the Board, to ensure that all relevant evidence is brought forward.

The Board is responsible for all administrative affairs concerning its hearings.

The Board can impose discipline directly on the officer if misconduct is proved. Penalties range from a reprimand to dismissal from the Force.

The Board must give written notice of its decision and the reasons therefor to the Chief of Police, the person who made the complaint and the police officer concerned.

2. Appeals

Where the Chief of Police has caused disciplinary proceedings to be taken under the Police Act, because of a civilian complaint, the police officer concerned may appeal from that decision to the Board and the Board must hold a hearing.

3. Reports

The Board must periodically published a summary of its decisions and the reasons therefor.

The Board must also report annually on its affairs to the Attorney General.

III. SIGNIFICANT ACTIVITIES -- 1981-1984

The following is a summary of the significant activities undertaken by the P.C.C. since it has been in operation.

A. Changes to the Former Police Complaints System

The Metropolitan Police Force Complaints Project Act, 1981 was proclaimed in force in December 1981; at the request of the Metro Mayors, and with the consent of the police, the Office was informally opened for business in July of that year. A good deal of the time between July and December was devoted to developing an understanding of the practice and policies of the Police Force's Public Complaints Investigation Bureau. The Bureau cooperated in making changes and adjustments in their procedures in order to comply with the spirit of the Act, and worked with the P.C.C. in designing the forms and setting up the investigative format and reporting procedures that would be used. These are now contained in the Regulations to the Act, and must be followed in all investigations. The regulation is reproduced, in part, below:

> "4. An investigation under section 9 of the Act shall be pursued quickly and diligently and the investigator shall endeavour to obtain all information that may have a bearing on the complaint.

> 5. All information and evidence obtained in the investigation shall be recorded and preserved.
>
> 6. The investigator shall endeavour to interview the person making the complaint and the police officer concerned and to obtain written statements from them.
>
> 7. The investigator shall endeavour to interview the witnesses named by the person making the complaint and the police officer concerned and witnesses located as a result of the investigation and to obtain written statements from such witnesses.
>
> 8. The investigator shall endeavour to obtain photographs of all personal injuries or damage to property alleged and any other information and evidence that is relevant to the investigations and could only be preserved by way of photographs.
>
> 9. Where appropriate, the investigator shall attend at the scene of the alleged misconduct and obtain any relevant evidence.
>
> 10. The investigator shall endeavour to obtain all hospital records and medical reports related to the complaint.
>
> 11. The investigator shall make notes during or as soon as possible after completion of each investigative step and the notes shall be preserved.
>
> 12. Any information, notes or evidence, except physical evidence, that is required to be preserved under sections 5 and 11 shall be retained for a period of two years after the complaint is finally disposed of."

It was apparent that it would be appropriate for the Bureau to split its function into two separate and distinct areas - investigation and adjudication. The investigators with the Bureau, over the six years the Bureau had operated, had developed the practice of making decisions on the evidence while conducting the investigation of a complaint. This tended to blur the necessary distinction between investigation and adjudication. After consultation on this matter, a procedure was developed in which the Bureau would report to one Deputy Chief and the decisions regarding dispositions of complaints would be made by another Deputy Chief. This procedure was also recommended in the Hickling-Johnston Report.

In addition to this activity, the Commissioner was developing his own intake and investigation procedures, and was also doing some review of complaints, although a public hearing could not be ordered since the Act had not yet been passed. He was able on review to resolve most complaints to the satisfaction of the complainant. Three cases, however, involved complaints which, had they been reviewed after the proclamation of the Act, might have been sent to the Police Complaints Board for a public hearing. Since the P.C.C. had no jurisdiction to order a hearing, these cases were referred to the Metropolitan Toronto Board of Commissioners of Police. The Public Complaints Commissioner attended before the Board of Commissioners and requested that they conduct hearings in these three cases. The Board of Commissioners acceded to this request and hearings were held. In one case, the

Board of Commissioners recommended that criminal charges be laid. In the second case, an outstanding civil suit was settled with a monetary award and a written apology to the complainant. In the third, internal disciplinary action was taken.

Another major issue that was referred to the P.C.C. before the proclamation of the Act involved a number of serious allegations against the Hold-Up Squad. A procedure for dealing with these allegations was set up before the passage of the Act. The Hold-Up Squad Report is discussed in more detail later in this report.

B. Receipt, Investigation, Resolution and Review of Complaints

From December 21, 1981 to December 20, 1983, there have been approximately 1680 complaints; an average of 840 complaints per year.

1. Intake

Complaints may be laid at the police force's Public Complaints Investigation Bureau, at any police station, or at the Office of the Public Complaints Commissioner.

In 1981/82, approximately 20% of complaints against Metropolitan Toronto Police officers were laid at the Office of the Public Complaints Commissioner. In 1982/83, the figure was 25%, and the early 1984 figures show that 40.3% of complaints presently come to the P.C.C. The P.C.C.'s investigative staff interviews these complainants. A detailed statement is taken, photographs are taken if necessary and any physical evidence is secured. If a complainant contacts the P.C.C. by telephone or letter, indicating that he or she is not able to come to the office, a P.C.C. investigator will arrange to see the complainant elsewhere.

Copies of all complaint forms, whether they originate at the P.C.C., the Bureau, or at the police station, are read by the P.C.C. staff for the purpose of compiling statistics and as a start in the monitoring process.

A copy of the complaint form, and of a form designed to explain the complaint process which is given to each complainant, can be found in the Appendices to this report.

2. Monitoring the Complaint Process

The P.C.C. reviews all complaint forms and all interim reports, and sees the completed file at the end of the complaint process. In this way, the P.C.C. is able to obtain information on the way in which a complaint is handled. On occasion, the P.C.C. will intervene to ask questions about the conduct of an investigation, a withdrawal of a complaint, or the settlement of a complaint. The P.C.C.'s researcher reviews all files to extract over 100 pieces of statistical information from each case.

Samples of an investigative report, a record of informal resolution, and a letter giving the decision of the Chief of Police's designate, all of which are sent to the P.C.C. as they are produced, can be found in the Appendices to this report.

3. Investigation

There is provision in the Act for P.C.C. investigators to investigate a complaint from the outset in certain circumstances. On occasion, the Chief of Police has asked the P.C.C. to undertake the initial investigation into an unusually wide-ranging or delicate matter. This occurred, for example, in the Morrish Road investigation described later in the section headed "Special Functions." From time to time, the complainant has been unwilling to speak to the officers of the Bureau, and in these cases, the P.C.C. has assumed the investigation of the matter when the

Bureau has completed its investigation to the extent that it is able. This occurred, for example, in the Jane-Finch and Regent Park complaints, also discussed later.

4. Review

If the complainant is unsatisfied with the decision of the Chief of Police, he or she may request a review by the P.C.C. The complainant is informed of this right in the letter from the Chief's designate, and in the form given to every complainant when the complaint is filed. As the P.C.C. becomes better known in the community, requests for review are increasing. Between December 21, 1981 and December 20, 1982, there were 45 requests. In 1983, this number increased to 74. Between December 21, 1983 and March 31, 1984, there have been 23 requests for review. Projected over a year, this rate, if continued, would yield approximately 85 requests for 1984.

A review involves an analysis of the police investigation, with reinvestigation where necessary. The review generally involves at least two interviews with the complainant and the subject officer. In appropriate cases, an attempt is made to settle the complaint by resolving it informally. In cases where informal resolution is inappropriate or impossible, the Public Complaints Commissioner must decide whether it would be in the public interest to hold a hearing into the matter. The Commissioner has the power to order such a hearing.

Frequently, the Commissioner finds that a settlement is not possible, but that it would not be in the public interest to hold a hearing. In this type of case, a review report is written. Situations in which review reports may be written cannot be described exhaustively, due to the many considerations which might arise in determining "the public interest". However, some examples can be provided. Review reports have been written in the following situations:

(a) where the officer's conduct is based on a misinterpretation of the law, but it is not in the public interest to hold a hearing;

(b) where the officer was acting legally, and believed that he or she was acting according to police policy and procedures, but in fact did not do so because of a misunderstanding of police policy or procedures;

(c) where the officer was acting reasonably and legally, but the complainant is unwilling to resolve the matter informally;

(d) where there is insufficient evidence to go to a Board hearing.

Examples of the situations listed above are briefly summarized as follows. The examples are based on actual cases.

(a) Mr. A, a photographer at a public demonstration, was inside a barricaded area that several police officers were trying to keep clear. He was arrested, taken to a police station and told that he was being charged with breach of the peace. He was detained for several hours and subsequently released, no charges having been laid. Mr. A complained that the police had tried to broaden their powers in clearing an area by resort to a "breach of the peace" charge. He complained, and when the Chief of Police declined to take action, Mr. A asked for a review.

On review, it was clear that the officers had acted according to their honest belief that, in the circumstances, they were justified in arresting Mr. A. for "breach of the peace". The Commissioner, therefore, felt that it was not in the public interest to order a hearing. However, the Commissioner produced a review report that canvassed the fairly unclear legal area of "breach of the peace." The Commissioner came to the conclusion on a review of the law that breach of the peace itself is not a criminal offence, although numerous criminal offences can be included within the meaning of the term. Therefore, it appeared that the law may not give the police the power to arrest or detain a person for a "breach of the peace". The review report concluded with a recommendation that the Ministry of the Attorney General and the Police Force should review the state of the law concerning "breach of the peace" with specific emphasis upon powers of arrest. Until such a study was completed and some conclusion reached, the Commissioner recommended that the Metropolitan Toronto Police Force should not arrest or detain anyone for breach of the peace in the absence of evidence of a specific offence for which the person could be arrested.

The recommended review of the law was done, and the police guidelines now include instructions advising officers not to arrest for breach of the peace unless violence or apprehension of violence is involved.

(b) Mr. B was a passenger in a car when the driver of the car was stopped on suspicion of impaired driving.

The arresting officer wished to take the driver of the car to the station for a breathalyzer test in the police vehicle. Mr. B entered the police vehicle with the intention of accompanying the driver of the car to the station. The police officers asked him to leave the car. One of the officers informed Mr. B that the police insurance policy has no provision for coverage in case of injuries to persons, not under arrest, who are transported in police vehicles.

Mr. B declined to leave the car because he wanted to give moral support to the driver. The police officer several times requested Mr. B to leave the car, and after subsequent refusals, bodily lifted Mr. B out of the car. Mr. B considered this action an assault, complained under the Act, and when the Chief of Police declined to take action against the officers, he requested a review of the matter.

On reviewing the evidence, the Commissioner decided that the police officers had had a right in law to remove the complainant from the police car. However, investigation revealed that the police insurance policy does cover passengers other than arrested persons. The Commissioner affixed a recommendation to the review report, advising that the terms of the insurance policy be reviewed with all officers.

(c) Mrs. C's son was involved in a minor car accident that resulted in damage to another vehicle. When an officer arrived on the scene to investigate the situation, the officer directed the son to sit in the back of the police cruiser to answer some questions relating to the incident. Mrs. C wished to sit with her son, but was told to stay out of the crusier, as the officer planned to talk to her separately. Mrs. C considered this action unreasonable and lodged a complaint. When the Chief of Police indicated that no action was warranted, Mrs. C asked for a review.

On review, the Commissioner determined that the police officer had been acting both legally and reasonably in separating witnesses to an event being investigated, so that she could take independent accounts of the event from each witness. While the Commissioner indicated his understanding that family members might wish to morally support another member of the family who was being questioned by police, the review report explained that there were sound reasons for the separation of witnesses, and concluded that no action was warranted.

(d) Ms. D was arrested on a shoplifting charge. She alleged that at the station the investigating officer shoved her roughly into a chair, and insulted her. In response to her complaint, the Chief of Police decided that no action was warranted. Ms. D requested a review by the P.C.C.

In the review report, the Commissioner outlined all the investigative steps that had been taken, all the evidence that had been considered, and what the various people involved had to say about the incident. In summing up, it was evident that Ms. D had had no physical injuries, and that both the investigating officer and another officer witnessing the investigation denied using or hearing any insulting language. The review report concluded by explaining the nature of evidence that would have to be present before the Police Complaints Board could make a finding. It was explained that there is no presumption in favour of credibility for either complainant or respondent officer in the Act. Therefore, where the evidence boils down to the officer's word against the complainant's word and there is no other evidence of any nature, it would be unlikely (although not impossible) that a Board could consider a complaint proved. After considering all of the circumstances of this case, the Commissioner concluded that it would not be in the public interest to order a hearing.

Review reports contain an exhaustive explanation of the nature of the allegation, the witnesses contacted, the evidence considered and any other investigative steps that were taken. In all cases where a witness's version of events contradicts that of the complainant, the complainant is informed about the contradiction and asked to comment. If the Commissioner decides that no action is warranted, the decision is explained. If the Commissioner decides to recommend a change in police policy or procedure, the recommendation is set out in detail.

Review reports are sent to all parties to the complaint.

An example of a review report, and an example of the Force's response to a recommendation contained in such a report, can be found in the Appendices to this report.

In addition, there are cases in which a review is done and the Commissioner finds that a public hearing is warranted, but the complainant does not wish to participate in a public hearing for one reason or another.

Mr. E was the father of a 12 year old boy who had been arrested by the police on a charge of careless driving, for driving a motorized go-cart on the sidewalk. After investigation by the Bureau, the Deputy Chief of Police concluded that the arresting officers had acted improperly in not leaving the house when requested to do so by the homeowner and in removing the boy from the home without shoes or a jacket. The officers were counselled.

Mr. E was not satisfied with the disposition of the Chief of Police and requested a review by the Commission. On review, the Commissioner determined that the case warranted a hearing in the public interest. However, when the Commissioner informed Mr. E that he was about to order a public hearing, Mr. E stated that he did not wish his son to have to testify, and, therefore, he did not wish a hearing to be held.

In this case, it was open to the Commissioner to subpoena both father and son, forcing them to testify at a public hearing. Considering all of the circumstances of the case, however, the Commissioner decided that it was not in the public interest to do so.

C. Board Hearings

As of March 31, 1984, there have been seven Board hearings completed. Ten others are pending. Thirteen hearings were ordered by the Commissioner on the basis of a complaint which came to the P.C.C. office for a review. Three were ordered by the Chief of Police, and one was an appeal by an officer of his conviction in an internal police hearing conducted under the Police Act.

In one of the seven completed hearings, the Board found the citizen's complaint substantiated. The penalty was a two-week suspension without pay. In another of the seven (the case of the officer who appealed his conviction under the Police Act), the penalty imposed, a demotion in rank, was confirmed.

Hearings by the Police Complaints Board are open to the public and are similar to other administrative or quasi-judicial proceedings. The Statutory Powers Procedure Act and the rules of natural justice apply. In his capacity as Chairman of the Police Complaints Board, the Commissioner appoints a panel to hear the case, and appoints a counsel for the Board. It is the function of counsel for the Board to ensure that all relevant evidence is heard by the Board and that any party who is not represented has his or her evidence properly put before the Board.

By some standards, the number of Board hearings ordered may seem small, relative to the number of complaints received. However, a comparison based on the number of complaints received is somewhat deceptive. It is important to note that, ordinarily, a Board hearing can only be called pursuant to the complainant's request for review of the case by the P.C.C. Between December 21, 1981 and December 20, 1983, 119 complainants requested a review.

Of these 119 cases, 86 reviews were completed by December 20, 1983. Of these 86, 9 cases were informally resolved by the Commissioner. A further 10 cases were withdrawn by the complainant. In 62 cases, the Commissioner decided that it was not in the public interest to hold a hearing and wrote a review report, with or without recommendations. In the remaining 5 of the 86 reviews completed by December 20, 1983, the Commissioner ordered a Board hearing.

As noted above, there have been a number of hearings called since December 20, 1983. As of March 31, 1984, there had been a total of 17 Board hearings ordered.

Penalties available to the Board where a finding of misconduct is made are labour relations penalties. They range from a reprimand to dismissal of the officer from the Force. They do not include criminal penalties such as incarceration, or civil remedies such as an award of damages. There has been some public criticism in the media in regard to the relatively minor nature of the penalty handed down in the first Board hearing where a police officer was guilty of misconduct. One Globe and Mail editorial referred to the penalty assessed in this case as "uncommonly light". The Toronto Star referred to the penalty as "a tap on the officer's wrist". The case referred to was the McKay decision, in which the officer was found to have assaulted a handcuffed prisoner in a police station. After hearing lengthy submissions as to penalty, the Board imposed a suspension without pay for two weeks. The penalty is under appeal to the Supreme Court of Ontario.

D. Special Functions

Since its inception, the Office of the Public Complaints Commissioner has been called upon in several cases to intervene in situations that involve not only complaints by individuals against members of the Police Force, but more widespread and generalized malfunctions in

Police/Community relations. The situation may involve public reaction to a particular incident, or it may be part of complicated and long-standing problems, including, but not limited to, a maladaptive police/community relationship.

In responding to requests for intervention in these larger and more complicated police/community problems, the P.C.C. endeavours to fill a preventative function. Depending on the situation, the P.C.C. may be called upon to investigate a series of individual complaints, to recommend changes in specific police procedures, to mediate between police and community, or to refer a community to appropriate other agencies in response to specific problems that relate to but are not primarily involved with police complaint issues.

Four large-scale problem situations have been dealt with by the P.C.C. since its inception. They are briefly summarized as follows:

1. Hold-Up Squad Investigation

On October 22, 1981, at a meeting of the Metropolitan Board of Commissioners of Police, letters from seven Toronto criminal lawyers were tabled. Each of the letters contained allegations that one or more persons had been tortured by officers from the Hold-Up Squad of the Metropolitan Toronto Police Force. The lawyers called for a public inquiry into these very serious allegations.

There was considerable media attention to the allegations and in November, 1981, the President of the Ontario Criminal Lawyers' Association wrote to the Attorney General of Ontario to demand a public inquiry. Further support for a public inquiry came as a result of a petition to Amnesty International sent by 73 Toronto criminal lawyers in November, 1981. Amnesty International wrote to the Attorney General in January 1982 urging that a public inquiry be constituted to examine the complaints. The Attorney General responded to these requests by referring the matter to the Public Complaints Commissioner.

The Commissioner met with representatives of all the parties concerned and obtained their agreement to his proposals regarding procedures for investigation. He reviewed the police force's internal investigation, which had commenced in October, 1981. Since the police force's special investigative team had not received much cooperation from the complainants and their counsel, the Commissioner undertook further investigation into all the allegations. As agreed with the representatives of all the parties involved, the Commissioner proposed to adhere as closely as possible to the procedures outlined in the newly proclaimed Metropolitan Police Force Complaints Project Act, 1981, although the powers under the Act were not available, since all of the allegations arose before the Act was made law.

Investigation by the P.C.C. commenced in March, 1982. Extra office space and resources were obtained through a special budget from the Ministry of the Attorney General. Transcripts of all relevant trials covering the allegations were obtained and summaries were made of the testimony of each witness. Other documents, including arrest reports, use of force reports, police occurrence reports, police officers' notebooks, prisoner records, police vehicle logs, and formal typed statements, were examined. Police and civilian witnesses who were interviewed included Hold-Up Squad officers, all other police officers who had contact with the complainants or were in the vicinity, the complainants, their friends and relatives, their counsel, and doctors who conducted medical examinations of the complainants. Since the complaints did not come under the jurisdiction of the Act, the Commissioner did not have the power to subpoena reluctant witnesses. However, when a witness was reluctant to be interviewed, information was obtained from other sources.

A separate file was opened for each complainant, subject officer, and witness. Altogether, a total of 153 files were opened. The information gathered during the investigation was collated and a system of cross-referencing was devised. Charts were prepared as investigative aids to pinpoint specific areas of concern and to assess uniformity or variation in the court testimonies of each witness.

The P.C.C. investigation was substantially completed in November, 1982. However, it was deemed advisable to await the outcome of the trial of several of the complainants, at which some of the brutality allegations would be raised in court. The trial was unexpectedly lengthy, and did not conclude until December, 1983. However, considerable relevant evidence given under oath and subject to cross-examination was obtained, through the examination of parts of the trial transcript.

In April, 1984, the P.C.C. released a 150-page report on the Hold-Up Squad investigation to the public. The report described the investigation and discussed the issues raised by the information that was obtained. The individual complaints were summarized in the report, which did not contain names of anyone involved because of concern about their civil rights. However, a 235-page summary of the information uncovered in each individual investigation was compiled and sent to the Ministry of the Attorney General for an opinion as to the possibility of criminal charges in certain doubtful cases. The conclusion of senior Crown Counsel was that there was insufficient reliable evidence to support the laying of criminal charges.

The P.C.C. report identified certain police practices and procedures which were unsatisfactory. The Commissioner stressed the need for specific reforms that would help to protect civilians from the possibility of abuse and police officers from unfounded allegations of abuse. The following 19 recommendations were made:

(i) POLICE OFFICERS SHOULD BE INSTRUCTED NOT TO COPY FROM FELLOW OFFICERS' NOTEBOOKS.

(ii) POLICE OFFICERS WHO HAVE HAD SOME CONTACT WITH A SUSPECT IN CUSTODY SHOULD BE REQUIRED TO FULLY ACCOUNT IN THEIR NOTEBOOKS FOR THE PERIOD OF TIME DURING WHICH THE SUSPECT IS BEING INVESTIGATED.

(iii) THE NOTEBOOKS OF ALL SPECIAL SQUAD OFFICERS SHOULD CONTAIN NUMBERED PAGES.

(iv) THE PROCEDURE WHEREBY POLICE OFFICERS' NOTEBOOKS ARE SIGNED DAILY BY A SUPERVISOR SHOULD BE EXTENDED TO INCLUDE SPECIAL SQUAD OFFICERS. FURTHERMORE, THE NOTEBOOKS OF ALL SPECIAL SQUAD DETECTIVES WHO INTERVIEW A SUSPECT AT A POLICE STATION SHOULD BE SIGNED BY THE POLICE OFFICER IN CHARGE OF THE STATION FOLLOWING THE CONCLUSION OF THE INTERVIEW.

(v) REPORTS WHICH ARE REQUIRED TO BE COMPLETED IN PROCESSING THE ARREST, CHARGE AND DETENTION OF A SUSPECT SHOULD INCLUDE THE TIMES AT WHICH THEY ARE COMPLETED AND THE DATE, AS WELL AS THE NAMES OF THE OFFICERS WHO HAVE ACTUALLY PREPARED THE REPORTS.

(vi) THE OFFICER IN CHARGE OF THE STATION SHOULD MAKE FREQUENT CHECKS AS TO THE CONDITION OF PRISONERS BEING HELD AT THE STATION. THE OFFICER SHOULD BE REQUIRED TO COMPLETE A FORM DESIGNED TO RECORD INFORMATION RELEVANT TO THE CONDITION OF THE PRISONER IN CUSTODY AT INTERVALS WHILE THAT PRISONER IS IN CUSTODY. THE FORM SHOULD BE DESIGNED TO RECORD INJURIES, CONTACT WITH POLICE OFFICERS, MOVEMENTS WHILE IN CUSTODY AND COMPLAINTS OF MISTREATMENT.

(vii) ANY COMPLAINTS OR INJURIES SHOULD IMMEDIATELY BE INVESTIGATED BY THE OFFICER IN CHARGE OF THE STATION. A REPORT OF THIS INVESTIGATION SHOULD BE SUBMITTED BY THE OFFICER IN CHARGE TO HIS OR HER SUPERIOR OFFICER.

(viii) IF A COMPLAINT IS MADE, A COPY OF THIS FORM SHOULD BE FORWARDED TO THE PUBLIC COMPLAINTS INVESTIGATION BUREAU ALONG WITH THE USUAL FORM FOR CITIZEN COMPLAINTS.

(ix) THE OFFICER IN CHARGE OF THE POLICE STATION SHOULD BE IMPRESSED WITH HIS OR HER RESPONSIBILITY AND ACCOUNTABILITY FOR ANYTHING OCCURRING AT THE STATION UNDER HIS OR HER SUPERVISION.

(x) MEMBERS OF ALL SPECIAL SQUADS SHOULD BE REMINDED THAT WHILE THEY ARE WORKING AT VARIOUS POLICE STATIONS, THE OFFICER IN CHARGE OF THE STATION HAS AUTHORITY OVER THEIR ACTIVITIES.

(xi) WHERE A STRIP-SEARCH IS CONSIDERED NECESSARY, IT SHOULD BE CONDUCTED BY OFFICERS OTHER THAN THE OFFICERS WHO ARE INTERROGATING THE COMPLAINANT.

(xii) THE RESPONSIBILITY FOR ENSURING THAT A STRIP-SEARCH HAS BEEN PROPERLY CONDUCTED SHOULD REST WITH THE OFFICER IN CHARGE OF THE STATION.

(xiii) THE OFFICER IN CHARGE OF THE STATION OR ANY OFFICER INSTRUCTED BY THE OFFICER IN CHARGE SHOULD NOTE ANY INJURY SEEN ON THE PRISONER'S

BODY AT THE TIME OF THE STRIP-SEARCH. ANY INJURIES SEEN AT THIS TIME SHOULD BE INVESTIGATED IMMEDIATELY BY THE OFFICER IN CHARGE OF THE STATION.

(xiv) SUSPECTS SHOULD NOT BE DETAINED IN INTERVIEW ROOMS LONGER THAN NECESSARY. WHEN THE INVESTIGATION HAS BEEN COMPLETED THE SUSPECT SHOULD EITHER BE RELEASED OR TAKEN TO THE CELL AREA.

(xv) A RECORD SHOULD BE KEPT BY THE OFFICER IN CHARGE OF THE STATION OF ALL MOVEMENTS OF A PRISONER TO AND FROM THE CELLS. THIS RECORD SHOULD CONTAIN THE NAMES OF THE PRISONER AND THE ESCORTING OFFICERS, AS WELL AS THE TIMES OF THE MOVEMENTS.

(xvi) THE DESCRIPTION SHEET USED BY THE IDENTIFICATION BUREAU SHOULD BE AMENDED TO PROVIDE A SPACE WHEREIN RECENT INJURIES AND COMPLAINTS CAN BE NOTED.

(xvii) ANY COMPLAINT WHICH IS BROUGHT TO THE ATTENTION OF IDENTIFICATION BUREAU OFFICERS SHOULD IMMEDIATELY BE REPORTED TO THEIR SUPERIOR. THE MATTER SHOULD ALSO BE REPORTED TO THE OFFICER IN CHARGE OF THE DIVISION WHERE THE ALLEGED MISCONDUCT OCCURRED.

(xviii) DEFENCE LAWYERS SHOULD BE ADVISED THAT IF THEY NOTICE INJURIES ON THEIR CLIENTS, THEY SHOULD ENSURE THAT ANY EVIDENCE OF THESE INJURIES IS PROPERLY RECORDED AND PRESERVED.

(xix) A PILOT PROJECT SHOULD BE ESTABLISHED TO IMPLEMENT THE USE OF VIDEO TAPE RECORDING IN METROPOLITAN TORONTO. THE PROJECT SHOULD BE OF AT LEAST TWO YEARS' DURATION AND BE SUBJECT TO EVALUATION AT THE END OF THAT TIME.

2. Morrish Road Investigation

On May 29, 1982, police were called to a party at 535 Morrish Road in Scarborough. By estimates of witnesses at the scene, the party numbered some 300-500 people.

Fifty-three officers came to the scene in response to complaints, arriving at various times during the evening. After attempting to contain the situation for some time, the officers ordered the party-goers to disperse and circled the property so that no further people could enter the house. At some point during the evening bottles were thrown at police officers and two officers ran toward the house. At this point, a number of officers converged upon the house and there was an altercation between the police and some party-goers. A CITY-TV photographer was present on the scene with a video camera and some of the incidents occurring were recorded on tape.

As a result of this incident, several people sued the police force for property damage and a number of people complained of assault by police. An investigation was commenced by the Public Complaints Investigation Bureau of the police force. The CITY-TV video tape, which was made available after being shown on television news, clearly showed that several officers were on the front lawn of the property as party-goers were leaving, and that some of these officers used their batons in an indiscriminate manner to strike some of the party-goers who were running from the area. The officers were not at that particular moment defending themselves from being assaulted, nor were they attempting to make an arrest. One officer was seen kicking out at several individuals, another officer was seen dragging someone who was on all fours, striking him with his baton and kicking him, and other officers were seen swinging their batons at individuals.

On August 12, Police Chief Jack Ackroyd asked the P.C.C to take over the investigation in the matter. After some investigation of the allegations, it became evident that identification of the officers involved was going to be extremely difficult. In November, 1982, senior Crown Counsel and senior police officers were asked to review the results of the investigation. They concluded that there was insufficient identification evidence to lay criminal charges, or internal disciplinary charges.

Because of the high degree of public interest in the matter, the Commissioner decided to hold parts of the investigation in public. Preparation for the investigation included considerable effort by P.C.C. investigators to get witnesses to the incident to come forward. Some witnesses eventually came forward and testified, during approximately 13 days of public hearings.

The major problem at the hearing was identification of officers who may have been guilty of misconduct. Unfortunately, the CITY-TV video tape had been shot under extremely poor conditions, which limited its usefulness to a large extent. The identification problem was further compounded by the fact that a number of the officers involved had removed their hats, which contained their identification numbers.

A number of methods of identification were tried; complainants reviewed pictures of the officers who were present at the scene, and watched the video tape at normal and slowed speed. In total the tape was shown some 150 times during the course of the hearing. The police investigators had sent a copy of the video tape to the Defence Research establishment in Valcartier, Quebec, to have experts there attempt to enhance it and get more detailed sharpness and clarity. However, due to poor quality, poor lighting and rain interference, the Defence Research establishment was unable to produce a better reproduction. Neither an enlarged version of the tape nor still photographs made from the tape achieved sufficient quality to enable witnesses to identify particular officers.

An investigator from the P.C.C. went to Boston, Massachusetts to consult with the optical division of the ITEK Corporation, which assists in the analysis of space photography. Once again, an attempt was made to achieve more detailed sharpness and clarity, but this was not possible.

The police officers involved in the incident were not helpful in assisting the P.C.C. with identification. Some officers - those who appeared on the video tape in non-controversial activities - were identified by themselves or their colleagues, even though they were in the background or with their backs partially to the camera. However, no police witnesses identified officers in the act of striking any civilian complainant either from the video tape or from their recollection of events at the scene.

At the conclusion of the public investigation into the Morrish Road incident, no misconduct could be attributed to any particular officer, although it was clear that misconduct had occurred.

In summing up the investigation, the Public Complaints Commissioner made a public statement outlining the events under inquiry and giving a frank analysis of the problems with identification that had occurred. The Commissioner also made nine recommendations for a police response to the incident. Some of these recommendations were aimed at ameliorating the situation. These included a public apology by the Chief of Police and the settlement of civil suits launched as a result of the incident. Other recommendations were aimed at prevention of similar incidents in the future and at implementing means of avoiding the identification problem by better police recording of crowd control situations. All the recommendations, which are listed below, were implemented by the police force:

(i) That the Chief of Police, on behalf of the Metropolitan Toronto Police Force, publicly apologize for the excesses of those officers seen to be assaulting civilians.

(ii) That the Chief of Police, on behalf of the Force, apologize, in writing, to each complainant for the inappropriate manner in which some officers conducted themselves.

(iii) That the Chief of Police, on behalf of the Force, offer to compensate those complainants who claim that their property was damaged by officers and agree to a formula or mechanism to facilitate this without having to resort to the Civil courts.

(iv) That all officers be instructed to comply with existing regulations which require them to wear their caps and cap identification badges at all times when dealing with the public. The only exception to this should be when in a police building, when driving or riding in a marked police vehicle or in special circumstances where courtesy dictates.

(v) That current operational procedures regarding major incidents be amended to include a provision requiring that the District Commander be informed immediately of a major incident and that he be responsible for ensuring that sufficient supervisory officers attend to provide proper direction and advice to officers at the scene.

(vi) That the Chief of Police consider the use of mitre radio sets or other similar electronic equipment as a means of effective communication in incidents involving large numbers of officers and that the District Commander be responsible for ensuring that sufficient equipment is provided, in order to provide proper direction and advice to officers at the scene.

(vii) That current operational procedures regarding major incidents be clarified to stress that all officers present are required to comply with all instructions from supervisory personnel and that those instructions preclude independent action. The circumstances in which independent action is justified should be defined with as much precision as possible.

(viii) That a "recording officer" be assigned to all major incidents to keep a current log recording all details of instructions given, actions taken, decisions made, observations of supervisory personnel and all other information which may be pertinent to a later reporting of the occurrence. This would place less reliance on the individual memories or recollections of officers who may be actively engaged in the occurrence.

(ix) That every officer who was present at Morrish Road be required to take a refresher course on crowd control and baton training and that the Chief of Police consider the adequacy of the amount of In-Service training presently given to constables.

A letter noting the Force's response to the Morrish Road recommendations can be found in the Appendices to this report.

3. Jane/Finch Initiatives

The Jane/Finch area of Toronto has been the subject of much debate concerning police/minority relations. The area in question is one of high density housing, with considerable problems in unemployment and race relations. There has also been considerable public concern in regard to the police force's relationship with the Jane/Finch community.

On November 12, 1982, the police force conducted a drug investigation in the Jane/Finch area which resulted in the arrest of 23 people. A number of Jane/Finch residents complained to the local Legal Aid clinic that the arrest had involved harassment, illegal searches and seizures, and other types of police misconduct. In response to a request from the Legal Aid clinic, two P.C.C investigators attended on several occasions at the clinic to receive complaints. One complaint was received in relation to the November 12, 1982 drug investigation. Three other complaints were also received. In addition, the P.C.C. assumed the on-going investigation into nine other complaints, based on incidents that had occurred on other dates.

In view of the public interest in the situation and the reluctance of the complainants to have any dealings with the police, the P.C.C. conducted part of the initial investigation into these complaints. The investigation of these complaints resulted in 50 civilians and 58 police officers being interviewed by either the Bureau or members of the P.C.C. staff. Essentially, Bureau investigators interviewed the police witnesses and the P.C.C. investigators interviewed the civilian witnesses.

Of the 13 Jane/Finch complainants, 5 withdrew their cases. In one case the Deputy Chief of Police tendered an apology for the embarassment caused by a street stop and questioning. In another case, the Deputy Chief of Police cautioned two constables about abuse of their power to search and to demand identification. In neither case did the complainant request a review of this decision.

Of the 6 remaining cases, one complainant requested review by the P.C.C. on two different cases. In both cases, Board hearings were ordered by the Commissioner. In the first case, which involved a complaint of an illegal search, the Police Complaints Board reviewed the law in the matter and found that the officers had acted legally and reasonably. The second case was withdrawn by the complainant.

It is not to be expected that the investigation of these 13 individual complaints would solve on-going problems in police/community relations in the Jane/Finch area. Therefore, the P.C.C. continues to make outreach efforts in the area. Staff of the P.C.C. have attended a number of meetings with residents and community leaders, police officers, Human Rights Commission staff, and other interested persons in the area, with a view to assisting the community in solving problems with police before they escalate to a dangerous point.

It should be noted that there have been other complaints coming from the Jane/Finch area since the November, 1982 P.C.C. investigation. However, these complaints have been processed through the complaints system without the need for intervention by the P.C.C. in the initial investigative stage. It would appear that the community, assisted by the Legal Aid clinic, has gained some degree of trust in the system, as evidenced by their willingness to use it, compared to their refusal to have complaints dealt with by the police in 1982.

4. Regent Park Complaints

The Regent Park area of Toronto, like the Jane/Finch area, is a community characterized by low income, high unemployment, and relatively high density housing. For some years, there have been sporadic expressions of public concern in regard to police/community relations, among other problems in the area. Most recently, police/community relations problems began to escalate early in 1983 with a number of incidents, including allegations of beatings and racism, and the death of a suspect while in police custody in April. The Residents' Association in Regent Park struck a subcommittee called the Regent Park Committee Against Police Harassment. Members of this Committee and representatives of agencies active in the area held a number of meetings to discuss the problems. Accompanied by an Alderman for the area and representatives of the Human Rights Commission, some committee members approached the Superintendent of 51 Division, the Division in charge of policing the area, to put forward their concerns. However, the situation was not resolved, and thereafter the Committee took the view that communication with the police force had proved futile and that efforts should be discontinued.

In October, 1983, the P.C.C. was advised by members of the Multicultural Relations Office of the Municipality of Metropolitan Toronto that a serious situation existed regarding police/community relations in Regent Park. Representatives of the P.C.C. got in touch with the Regent

Park Tenants' Association and through them the Regent Park Committee Against Police Harassment. A meeting was arranged with the Committee to inform them about the Office of the Public Complaints Commissioner. A series of meetings took place, and eventually 15 complaints were referred through the Regent Park Committee to the P.C.C. The complaints, which were laid in January, 1984, are going through the complaint system at present. Due to the complainants' reluctance to speak to police officers, the P.C.C. has assumed the investigation from the Public Complaints Investigation Bureau and will be preparing investigation reports for each complaint.

At meetings with residents of Regent Park, a number of complaints emerged which had less to do with individual officers' misconduct, than with community dissatisfaction with specific police practices and procedures. In particular, there are widespread complaints about general harassment and racism.

The Commissioner takes the view that problems in police/community relations are best solved by dialogue between the police and the community concerned. Since there appeared to be an impasse in communication between 51 Division and Regent Park residents, the Commissioner undertook to mediate between the residents and the Police

Force. With the agreement and support of police, the Aldermen in the area, the Race Relations Division of the Human Rights Commission, and the Regent Park Committee, meetings are currently taking place. The Commissioner's plan is to continue discussions of the situation and elicit suggestions for its improvement from both parties, to identify areas in which understanding might be reached and to bring the parties together, thereby facilitating communication and problem-solving between the residents and the police force. The P.C.C. is also communicating with agencies which might prove helpful in implementing solutions to the myriad problems involved in the situation. Excellent cooperation is being demonstrated by both Regent Park residents and the Police Force, and efforts to devise solutions continue.

E. Research and Statistics

An extensive research program was designed at the inception of the project, to collect the maximum amount of information on the operation of the complaints system. The collection of research and statistics by the Public Complaints Commissioner is directed towards two aims - improving methods of processing public complaints against police officers and identifying patterns or trends with a view to being able to assist the management of the police force in taking preventative action.

1. Improving Methods of Processing Complaints

The P.C.C.'s research into methods of processing complaints involved two major activities: compiling data on systems used in other jurisdictions and collecting information by way of research instruments designed to reflect the opinions and reactions of both police officers and complainants under the new system.

Through personal visits, written correspondence and attendance at conferences, the P.C.C. has now collected data on public complaints systems operating in some 35 other jurisdictions including other Canadian provinces, the United States, England, Australia, Bermuda, Northern Ireland and Nigeria. Much of this data was compiled as part of the research undertaken before the present Act was drafted. However, the files are kept up to date through correspondence with the other jurisdictions.

A questionnaire was administered to all officers of the Metropolitan Toronto Police Force shortly after proclamation of the Act in order to gauge their impressions of the P.C.C. and to enable them to air any concerns that they might have. All officers were sent a copy of this questionnaire and a covering letter informing them of its purpose. This resulted in a 20% response rate, with 1,013 questionnaires completed and returned to the P.C.C. In addition, the Commissioner and his staff take note of any observations made during their frequent contacts with police officers.

Another questionnaire was designed for distribution among all complainants. The purpose of this questionnaire is to gather information on the complainants' impressions of the complaints procedure, their satisfaction with the investigation and their feelings about the outcome. These are only a few of the numerous areas explored in the questionnaire.

The complainant questionnaire is sent to all complainants at the end of the complaint process; that is, after the complainant has received the Chief of Police's decision, or after review or Board hearing.

18.9% of complainants in the first year completed the questionnaire and returned them to the P.C.C. Responses to the questionnaire are reviewed in the section on statistics at the end of this report, and in the section on the goals of the P.C.C., below.

2. Identification of Patterns and Trends in Complaints

In addition to the questionnaires mentioned above, the P.C.C. developed a major research instrument for the purpose of gathering extensive data on each file. The Complaint Recording Form records information such as the date, time, location and police division of the occurrence; number and type of allegation; precipitating factors and injuries (if any) and extensive details on all stages of the complaint process from the date of filing to the date of final disposition. Information relating to the time period involved from one stage of the process to various other stages was also gathered in order to provide an indication of how efficiently the system is operating.

The recording of this and other information provides data that has never before been collected. The information is likely to be extremely useful in assisting police management to identify areas where preventative measures are necessary, and has already begun to be used in this way.

Statistics extracted from the Complaint Recording Form are reviewed at the end of this report.

IV. THE MAJOR GOALS OF THE P.C.C. AND PROGRESS TOWARD THEM

The Metropolitan Police Complaints Project Act, 1981 was enacted in order to improve police/community relations by ensuring that police complaints are dealt with openly and fairly. The public interest in the complaint process was recognized by introducing extensive civilian participation and decision-making, thus making the police force more accountable to the community it serves, while continuing to place the day-to-day responsibility for discipline on the Police Force itself.

The two major goals of the P.C.C. have been to build and maintain an effective system for handling police complaints and to assist in preventing police/community problems from arising or from escalating. This part will discuss these objectives, set out the procedures and mechanisms that have contributed to achieving them, and highlight those facts that might be viewed as indicators of progress.

A. Effectiveness in Handling Complaints

The importance of an effective complaint system to both the public and the police force cannot be over-stressed. A complaint system is an avenue for constructive criticism that can be seen to produce change where change is necessary. Such a system is essential to maintain trust in a police force and respect for that force's integrity. It engenders community support and facilitates police/citizen cooperation, an element vital to the department's ability to achieve its goals. It is also a very valuable management tool in that it assists police officials in identifying problem areas in which increased training or direction is necessary. Furthermore, it can assist in identifying and correcting unclear or inappropriate police procedures.

To maintain an effective complaints system, there are three major areas that must receive on-going attention. First, the system must be credible. It must not only be, but must be seen to be, fair, equitable and trustworthy to both complainants and police officers. It must provide members of the public with an effective avenue for redress of legitimate grievances against law enforcement officers and at the same time, ensure that the rights of an accused officer are protected.

Secondly, the system must be visible; there must be outreach and education efforts directed to making people aware of the existence of the system and of their rights under it.

Finally, the system must be accessible. It must be kept as uncomplicated and understandable to the participants as possible.

1. Credibility

The major tasks in creating a credible complaints system are maintaining accountability and avoiding conflict of interest, real or perceived.

(a) Accountability

The Act which created the P.C.C. was put in place to provide civilian participation in the police complaints process. The need for civilian participation arose because of concerns on the part of the public that the existing system for complaints was not sufficiently open and accountable, and did not give the complainant enough information about the process. As a result, many members of the public were not satisfied that their complaints had been heard and appropriately responded to. Even if a thorough investigation were done, the lack of any involvement in or any meaningful information about the process created widespread cynicism. Typically, at the end of the day, all a complainant would receive was a short letter or a telephone call advising, without reasons, that the complaint had not been substantiated.

Police officers' concern with the previous complaint system also related to the closed nature of the system. They too were not given enough information about any complaints brought against them and thus, had no way of being sure that the complaint process was fair. Indeed, the publicly expressed perception of the Police Association was that the previous system was not fair.

The new Act has introduced procedures that contribute to the credibility of the system by increasing the police force's accountability to the community.

Increased accountability is achieved by requiring standard investigation procedures, described above in Part III of this report, to be followed in each case, and by providing written information to the complainant and subject officer at all stages of a complaint. When a complainant lodges a complaint, he or she receives a form that briefly lists all the steps in the complaints procedure. As the complaint is investigated, the complainant, the subject officer and the P.C.C. receive written investigative reports giving information on the steps taken to date in the investigation. This enables the P.C.C. to monitor the conduct of the investigation.

If a complaint is informally resolved, an agreement and the reasons for the agreement are set down in writing and signed by the complainant and subject officer. A copy of the written resolution is given to the complainant, the subject officer and the P.C.C.

When a decision is made on behalf of the Chief of Police, at the close of the investigation, the decision and the reasons for the decision are set down in writing and sent to the complainant, the subject officer and the P.C.C.

Examples of all of the above-mentioned forms are set out in the Appendices to this report.

Important as this openness is, a major factor that increases accountability is the fact that the investigation is monitored by the P.C.C. and that the complainant has a right to a review of the complaint by the P.C.C. if he or she is dissatisfied with the decision of the Chief of Police. That review can lead to a public inquiry into the complaint, conducted by a panel of civilians with disciplinary powers including dismissal from the force.

(b) Avoidance of Conflict of Interest

The credibility of a complaints system is largely dependent upon the extent to which perceived conflicts of interest can be avoided. Critics of this legislation argue that there remains an inherent conflict of interest since, in most cases, police officers investigate the complaint. Some people mistrust the ability of a police officer to be objective in investigating a complaint against another police officer; however, it would be difficult to determine whether the general public feels this way. The P.C.C. has made an effort to elicit the opinion of people who actually have used the system to make a complaint against a police officer.

A complainant questionnaire was designed for the purpose of assessing complainants' satisfaction or dissatisfaction with the new complaints procedure. A copy of this questionnaire is sent to all complainants at the end of the complaint process, yielding a return of approximately one in five (18.9%). Of the 108 complainants sampled from December 21, 1981 to December 20, 1982, 42.5% have indicated that they felt that the police investigation had been thorough, 20.4% were not sure, and 37.0% felt that the police investigation had not been thorough. 48.1% of the complainants' sampled did not object to the police investigating their complaint, 8.3% were not sure and 43.5% did object. 43.8% thought that a completely civilian investigation of their complaint would alter the outcome of the complaint, 31.4% were not sure of this issue and 24.8% thought there would be no difference in outcome if the entire investigation were done by civilians.

Since only one year's data has been collected thus far on complainants' perceptions of the complaints procedure, these data cannot be considered conclusive. However, they do indicate that a significant number of complainants do not feel that police officers investigating other police officers can be totally fair. But, before deciding whether this dissatisfaction, if widespread, should result in a change to the system, the views of the Metropolitan Toronto Police Force, and the experience elsewhere must be taken into account.

The P.C.C. has studied over 25 complaint systems in other jurisdictions and has found that in every case where the police force has been excluded from the complaints process the system has failed. The New York and Philadelphia systems as they existed in the 1960's are two examples of this phenomenon. In order to effectively manage the police force, it is essential that the police themselves be involved, to some extent, in the investigation of complaints and make the initial decision as to disposition in every case. In this way, the police can "clean their own house" and be seen to do so, thus fostering good police/community relations. At the same time, the system can be seen to be credible to police officers.

Another reason for involvement by the police in the investigation of complaints is that a certain amount of co-operation from the police force is essential to the functioning of a complaints system. This support would be most difficult to maintain if the police were excluded.

The responses to a questionnaire distributed among the police force at the inception of the P.C.C. provides some illustration of how police officers viewed the concept of civilian review of police complaints at that time. Some 20% of the officers, a total of 1013, returned completed questionnaires. Their responses showed that just under two-thirds objected to civilian involvement in the investigation of complaints. Close to one-third of the sample did not object to civilian involvement or objected only mildly. All officers who had objected to civilian involvement were asked to indicate their reasons.

The major reason, given by over one-third of the officers who objected, was that civilians lacked understanding of police work and the circumstances surrounding complaints. The second most frequent reason, given by one-third of the officers, was that civilians lacked investigative knowledge and were therefore not qualified to conduct investigations. Nineteen per cent said that civilians would be biased against the police or that civilians lacked understanding of the conditions and stresses under which police were required to operate.

Clearly, there is likely to be dissatisfaction among some members of the public if the police are not completely excluded from the complaint process and dissatisfaction from some members of the police force if citizens are involved at all. The recent history of the issue in Ontario indicates that a complete exclusion of civilians from the process is not a viable option and that civilians can in fact prove to be effective in investigations. On the other hand, the experience of jurisdictions such as Philadelphia and New York was that a complaint system that excluded the police was unworkable. In those two jurisdictions, the police forces' reaction to the complaint system manifested itself in battles over procedural issues (such as the right to subpoena officers) that eventually brought the systems to a standstill. In the final analysis these systems proved counter - productive and were terminated, in Philadelphia by a Chief of Police who became Mayor, and in New York, after a voter referendum.

In this jurisdiction, after considerable research into other police complaint systems, a compromise was proposed in which the independent civilian agency would do initial investigations only in special cases defined by the Act. It was felt that the power to monitor the initial police investigation and to review and reinvestigate the entire matter on the request of the complainant would afford a workable balance. The Ontario system has as much, or more civilian participation than any other complaint system in the 35 jurisdictions the P.C.C. has studied. At the same time, this system affords the police the first opportunity to respond appropriately to citizen complaints, thus involving them in the process and avoiding an entirely "them vs. us" approach to public complaints.

The existence of the Office of the Public Complaints Commissioner means that the Board of Commissioners of Police, which is responsible for recruitment, training, and establishing practices and procedures, is not put in the position of having to deal with a complaint that may involve criticism of these very matters. It also reduces the possibility that the Chief of Police will be put in a position of perceived conflict of interest where, for example, a civil suit has been launched against the police force by a complainant. A finding by the Chief of Police or an internal hearing under the Police Act could be detrimental to the police force's position as a defendant in the civil litigation. The Chief has in fact referred investigations to the P.C.C. where civil suits were pending and has referred a matter to the Police Complaints Board rather than an internal hearing in this type of situation.

2. Visibility

It would be unrealistic for anyone administering a new law to expect people to immediately become aware of their new rights and how to exercise them. Furthermore, it is fair to assume that most people feel slightly intimidated about dealing with any official agency. If people are to be expected to use the new system, it is clear that outreach and educational efforts are necessary.

The P.C.C. has conducted educational sessions at police stations and police colleges to explain the system; these efforts are continuing. The Commissioner has also met with the Metropolitan Toronto Board of Commissioners of Police and the Ontario Police Commission to discuss the system.

In regard to the general public, the P.C.C.'s efforts in outreach and education began early in the project and have increased in variety and intensity in the second and third year. On three occasions, the P.C.C. produced an advertisement about its work which was published in over 100 newspapers in over 30 different languages. A poster giving a brief explanation of the complaints system and a pamphlet describing the system were made available to the general public through community information centres, legal clinics, courts, police stations, constituency offices of Metropolitan Toronto MPs and MPPs, aldermen/controllers' offices, libraries, government bookstores, liquor stores, supermarkets, driver examination centres, license issuing offices and other miscellaneous outlets. Copies were also distributed through the Criminal Lawyers Association to all of its members and made available to every police officer in Metropolitan Toronto.

Copies of these advertisements and brochures are included in the Appendices to this report.

Members of the P.C.C. staff have given interviews to television, radio and the Toronto newspapers. As a result, articles about the work of the Office have appeared in newspapers across Canada.

There was a great deal of media interest once public hearings by the Board were announced in the fall of 1982. The P.C.C. conducted an information seminar for members of the media to assist in their understanding of the Act.

Also, during the summer and early fall of 1982, each individual or group that had appeared before or submitted a brief to the Justice Committee was invited to visit the P.C.C. office. Representatives from many of the groups attended. These meetings were very useful as the Commissioner was able to explain how the system works and discuss their various concerns.

The P.C.C. has also produced a report on its activities in the pre-proclamation period as well as a first annual report. These reports contain extensive data, and are in great demand by community groups and agencies and by police complaints systems existing and planned in other jurisdictions.

In response to requests for information from high school law teachers, P.C.C. staff have spoken to over 50 groups of high school students, and to two groups of high-school teachers.

The P.C.C. is also a part of the Dial-A-Law program of the Law Society of Upper Canada. Those requesting information about the system are provided with information from an educational tape produced by the P.C.C.

From mid-1983 to the present, the P.C.C. has instituted a series of meetings with community organizations, ethnic associations, legal clinics and service agencies, to explain the complaints system to community workers who might be referring complainants to the Office. In addition, the Commissioner met with each of the mayors and municipal councils of Metropolitan Toronto to discuss the system. The Commissioner is also a member of the newly established Council on Race Relations and Policing. This Council, which includes representatives from the police force and the community, meets regularly to discuss ways of improving relations between the police and members of visible minority groups.

3. Accessibility

As noted above, to be effective, a complaint system must be accessible, responsive and as uncomplicated as possible. If the system is not accessible, it will not be used. A system that is not used extensively cannot possibly be effective, because it will not accurately reflect the views of the community as a whole.

The Commissioner has made efforts to ensure that the P.C.C. is approachable. The location of the office is close to major public transit, extended office hours can be arranged as needed by complainants or police officers, translation services are available, and the P.C.C. staff regularly travel to any complainants or officers who find it difficult to come to the office. Furthermore, it is the Commissioner's policy that "red tape" be eliminated if possible. When experience shows that an aspect of the procedure is causing difficulty, the P.C.C. staff does its best to modify it. If the procedure is necessary, the P.C.C. staff try to explain it to the person's satisfaction.

4. Indicators of Progress Towards a More Effective Complaints System

It is always difficult to measure the success of the type of efforts described above. However, there are some indicators that suggest success. For example:

(a) Gradually, more and more complainants have laid their complaints at the P.C.C. office. Further, statistics gathered from complainant questionnaires show that virtually all complainants who laid complaints at the P.C.C. office felt that they were treated with respect and that their complaint was taken seriously.

(b) Each year has shown an increase in complainants requesting reviews by the P.C.C. While a request for review indicates dissatisfaction with the decision of the chief of police, the increase can also be interpreted positively as indicating an increased awareness of the new system and a willingness to use it.

(c) A number of officers who have dealt with the P.C.C. as respondents to a complaint have expressed the opinion that the process is fair.

(d) The Police Association has launched a case in the Divisional Court of Ontario, asking the court to order police management to direct a particular complaint against an officer through the public complaints system, rather than dealing with the matter internally.

(e) Reaction from legal clinics, the legal profession and community groups to the P.C.C.'s educational efforts has been generally favourable.

(f) There has been an increase in internal discipline in citizen complaint cases since the advent of the P.C.C. The figures compiled for the period between December 21, 1981, and December 20, 1983, show that in 4 cases, criminal charges resulted; in 14 cases, Police Act charges were laid. Other forms of discipline were administered in 43 cases. In the first two years of operation under the new system, there was a four-fold increase in the number of Police Act charges laid as a result of citizen complaints, as compared to the two years prior to the existence of the P.C.C. This is an indication that the force is "cleaning its own house". And, very importantly, the disclosure of this disciplinary action to the complainant, resulting from the new system, means that justice is seen to be done.

(g) The P.C.C. monitors the investigation of complaints by the Bureau, as well as any efforts by the Bureau to settle a complaint. On occasion, the P.C.C. has made recommendations, where the Bureau appeared to be inappropriately reclassifying a complaint or overlooking significant aspects of the complaint. In most cases, the Bureau has cooperated with the P.C.C.'s recommendations.

(h) Review reports, many of which are 10 to 20 pages in length, are sent to both complainant and subject officer. These reports are only written in those cases where the Commissioner has decided that it is not in the public interest to hold a hearing. Nevertheless, the response that the P.C.C. has received from many complainants and subject officers who received these reports have been positive. A number have commented favourably on the thoroughness of the investigation and on the fairness of the review process.

B. Preventing Misconduct and Preventing Existing Problems from Escalating

A most important factor to remember in assessing a police complaint system is that there will never be a situation in which people have no complaints about the police. Complaints from the public are a "fact of life" in police work. This is partly due to the nature of police work, which is concerned with control of peoples' behaviour, often in highly stressful situations, as well as the provision of protective services. This is also due to the fact that some complainants are not, strictly speaking, concerned with individual misconduct, but rather with police procedures that may no longer be acceptable in the community. A police force is an institution, and, like other institutions such as health services and education, it will always be under pressure to change in response to societal change.

Thus, the goals of a complaint system do not include the elimination of citizen complaints against the police force, although some preventative effect on certain types of problems is anticipated.

Two aspects of the P.C.C.'s activities can be expected to prevent problems from arising. The first is the complaints procedure itself. The system may have an educative effect on subject officers and may deter officers from misconducting themselves.

The second preventative aspect of the P.C.C.'s activities is its unique ability to mediate between police *and communities where the relationship between the two has* become strained, in order to prevent the situation from worsening.

1. Prevention of Misconduct

Some preventable problems arise in situations involving minor misconduct or questionable conduct on the part of the officer. In a significant proportion of these complaints, the problem arises because the officer misunderstands what the citizen is saying or doing, misinterprets the law, misjudges and mishandles the situation or loses his temper and becomes rude.

In most cases of questionable conduct (as opposed to misconduct) discipline, or discipline alone, is not the answer. Rather, what is needed is suitable educative measures. Training or retraining in the law relevant to a particular area of police work, in interpersonal communication, in crowd control or in dealing with the stress of the job may prevent the problem arising in the future.

As of March 31, 1984, the P.C.C. had issued 67 review reports. These reports describe the circumstances under which the complaint arose and outline the points of view of both complainants and officers. Where it appears that the problem was caused by an officer's misunderstanding of the law or of police force procedures, the Commissioner makes a recommendation for re-education of the officer. Where the officer's attitude or conduct did not amount to misconduct, but was questionable, a suggestion is often made as to how the situation might have been better handled.

Approximately 30% of all complaints are resolved through a written informal resolution. In a settlement such as this, the complainant and the officer are brought together and some kind of understanding is arrived at. Depending on the situation, the officer may admit causing or contributing to the problem and apologize, or the complainant may receive an explanation for the officer's action that satisfies him or her. In any event, the informal resolution of a complaint usually leads to a better understanding of the officer by the complainant and of the complainant by the officer. It is hoped that this will contribute to the prevention of further problems.

In more serious and deliberate types of misconduct, discipline or removal from the force may be the answer, with or without the educative measures described above. It is to be assumed that discipline will have a deterrent effect and thus be preventative of this type of misconduct.

The P.C.C. records statistical information about every complaint made through the system. Thus it is in a position to identify trends or patterns in complaints, geographical areas of the city that appear to be "trouble" spots, and the times, places and circumstances in which complaints arise. This can provide the police force with valuable information upon which preventative measures can be based. The P.C.C. researcher has assisted police management in setting up an appropriate statistics-keeping system for the Bureau.

It is obvious that it is easier and more productive for police management to deal on an ongoing basis with the P.C.C. on complaint issues rather than responding to Royal Commissions and similar inquiries. Further, the fairness of the P.C.C.'s procedures contributes to ensuring that discipline can be maintained without loss of morale among police officers.

A final point on the topic of preventative effect on individual officers is that the very presence of the P.C.C. may have a "cooling" effect on police misconduct.

2. Preventing Existing Problems from Escalating

The P.C.C.'s involvement in monitoring and reviewing the handling of public complaints against the police force gives the office a degree of expertise in problems arising between police officers and civilians. As a result, the Commissioner is in a unique position to assist both the police force and the community in resolving general as well as specific complaints.

The P.C.C. does not claim to have all the answers. However, it does have at its disposal an effective investigative staff, an appreciation of problematic issues in police/community relations and a familiarity with the function of the police force that is unique in a civilian agency. In addition, the P.C.C. has a knowledge of both the government resources and community agencies that might contribute to the solution of various elements in a complicated problem situation.

The P.C.C. has been asked to intervene in four such major problem situations in the past two and one-half years. In two cases, an immediate inquiry by an independent body into specific police conduct was called for. These were the inquiry into the Hold-Up Squad and the Morrish Road inquiry. In the other two cases, the situation, while centred around specific complaints, involved fairly extensive and long-standing problems in police/community relations. Prompt action was taken to deal with specific complaints while efforts to assist in achieving better police/community relations are still going on. The communities involved are in the Jane/Finch and Regent Park areas of the city.

These major projects are described in the section on Significant Activities 1981-1984.

3. Indicators of Progress Towards the Prevention of Misconduct or Misunderstanding

A preventative effect is very difficult, if not impossible, to assess. However, the activities which might logically have had a preventative effect will be noted here:

(a) The P.C.C. has received ongoing support from Metro Council. They have funded 50% of the project's costs and have demonstrated continuing interest in and approval of the Commission's activities. The P.C.C. also has a good working relationship with the Board of Commissioners of Police, which refers problems and complaints to the P.C.C., and with the senior managing officers of the force. Metro Council, the Board of Commissioners of Police, the Chief of Police and senior officers of the force recognize that the complaints system can be a valuable aid in managing discipline problems. They recognize that the system can credibly dispose of unmeritorious complaints, and also assist the force to discipline or remove individual officers who misconduct themselves. This both improves the quality of policing and maintains the reputation for integrity that is essential to any police force. There is also some recognition that a problem that becomes evident as a result of an individual complaint of misconduct may indicate that widespread preventative measures are necessary.

(b) The Commissioner and his senior staff are continually in contact with senior police management to discuss individual complaints and the functioning of the complaint system. In addition, the Commissioner has ongoing consultation with senior police management about potential and existing problem situations between the force and various communities. (See Significant Activities section.)

(c) On occasion, the Commissioner has made formal recommendations in a review report concerning practices employed by the force. This occurs where an officer has acted legally and in accordance with a police procedure, but the procedure appears inappropriate. The force has usually responded by changing the practice in question.

V. ASSESSMENTS FROM OTHER JURISDICTIONS

The P.C.C. has been approached by representatives from other jurisdictions that are attempting to deal effectively with complaints by the public against police.

Both the legislation and the Project itself have been studied closely by other jurisdictions in Canada, the United States, Europe, Hong Kong, Bermuda, Jamaica, the Netherlands, Nigeria and Australia. In 1981 the Right Honourable Lord Scarman reported on the causes of the Brixton and other riots in the United Kingdom. In one part of Lord Scarman's report, he discussed complaints of mistreatment by the police and public perceptions of the existing complaints system in Britain as being unresponsive. He recommended that:

> "The Toronto proposal (P.C.C.) appears to me to merit serious consideration as a possible model for reform of our procedure".

Recently, Manitoba and Nova Scotia have developed legislation somewhat similar to Ontario's. Further, the Ombudsman of New South Wales, Australia, who is setting up a police complaints system, studied the P.C.C., established similar procedures and used many of the P.C.C.'s forms, adapted for Australia.

VI. RESEARCH AND STATISTICS

A. Introduction - Statistics as an Aid to Evaluation

It is extremely difficult to evaluate a system that effects civilian review of police complaints, as the area of police complaints is extraordinarily complex. This problem is not unique to the P.C.C. Every police complaints system studied by the P.C.C. suffers from the same difficulty, due to the nature of the subject being assessed.

Statistics, an ordinary tool of the evaluator, tend to be inconclusive in this case. Suppose, to use one example, statistics showed that the number of complaints lodged against police officers in a given year had declined. This could mean that less misconduct was occurring. On the other hand, it could indicate that the complaints system was so badly organized, inaccessible or intimidating that potential complainants were discouraged.

Another difficulty is in deciding what to use as an appropriate measure of "success". Can the number of officers disciplined in a year serve as a criterion? If a large number of officers are disciplined, does this mean that misconduct is being effectively investigated, or that the system operates on the "kangaroo court" mode, or both?

Can a system be devised that would measure complainant satisfaction with outcome? If it could, is this a measure of success? A complainant who fabricates a complaint would surely be pleased if the officer were disciplined unfairly. However, few would agree that the complaints system should satisfy this type of complainant.

What about officers' perceptions of the fairness of the system? This too can be misleading. There will always be people who consider a system "unfair" simply because it inconveniences them. On the other side of the coin, there will always be those who rate a system as "fair" because it appears ineffectual and unlikely ever to inconvenience them.

Of course, none of this is to say that statistics should not be kept, or are incapable of being useful. It is simply that, in an area so full of conflicting values and needs, they must be interpreted with caution.

B. The Database: 1981 - 1983

Research data and statistics on all phases of the complaints procedure have been gathered since the inception of the project. The results discussed below are based on the two years of operation of the P.C.C., from

December 21, 1981 to December 20, 1983. All cases that were closed within that period are included in the present database.

A total of 1680 cases were opened over the two years -- 922 cases were opened in 1982, and 758 cases opened in 1983. 1366 of these cases were closed (completed) during that time: 609 by December 20, 1982; and an additional 757 by December 20, 1983.

The 1680 cases filed over the two years represents an average of 70 cases per month. The actual number of complaints that were filed each month is presented below.

	No.	%
January	159	9.5
February	137	8.2
March	141	8.4
April	138	8.2
May	149	8.9
June	138	8.2
July	142	8.5
August	141	8.4
September	166	9.9
October	111	6.6
November	133	7.9
December	125	7.4
TOTAL	1680	100.0

Once a complaint case is completed, the closed file is forwarded to the Research Section and a Complaint Recording Form completed. The information used to fill out the form in each case is gathered by the Public Complaints Commissioner's researcher who personally reads the entire file on every complaint that goes through the system. Over 100 items of information from each file are transferred to the Complaint Recording Form.

The Complaint Recording Form was designed to obtain maximum information from each complaint case filed, such as: the date, location and police division of the occurrence; number and type of allegation; precipitating factors and alleged injuries, and extensive details on all stages of the complaint process from the date of filing to the date of final disposition. Information relating to the time involved from one stage of the process to various other stages is also gathered in order to provide an indication of how efficiently the system is operating.

C. Research Findings Gathered from Complaint Recording Forms

The statistics collected from the Complaint Recording Form on cases closed between December 21, 1981 and December 20, 1983 will be presented below. This data base of closed cases consists of a total of 1366 cases.

1. Where Complaints Filed

The majority of the complaints were filed at a police station (44.6%); 25.5% were filed with the Public Complaints Investigation Bureau; 22.7% were filed with the Public Complaints Commissioner; 5.1% were filed with the Chief of Police. 1.1% of the complaints were filed with the Ontario Police Commission, while another 0.4% was filed with the Attorney General.

In 1982, 20% of all complaints lodged were filed at the P.C.C. Office. This represented an increase of 15% from the number filed in the pre-proclamation period. In 1983, 25% of all complaints were filed with the P.C.C. -- a further increase of 5% from 1982. It would thus appear that information about the office's existence is spreading. These data may be found in Table 1.

13.6% of the complaints were filed by letter while 86.5% were filed in person.

2. Time and Date of Complaint Incident

A slightly higher number of complaint incidents appeared to occur over the weekend: Friday to Sunday accounted for roughly half of all complaint occurrences

TABLE 1

LOCATION WHERE COMPLAINTS FILED

	No.	%
POLICE STATION	611	44.6
PUBLIC COMPLAINTS INVESTIGATION BUREAU	348	25.5
PUBLIC COMPLAINTS COMMISSIONER	310	22.7
CHIEF OF POLICE	70	5.1
ONTARIO POLICE COMMISSION	15	1.1
ATTORNEY GENERAL	5	0.4
DETENTION CENTRE	2	0.2
OTHER	5	0.4
TOTAL	1366	100.0

[illegible]. There was a relatively equal distribution of occurrences on the remaining days ranging from 11% to 15% per day. The full list of the days of the week and the respective number of complaints taking place on each day may be found in Table 2.

The days on which complaints were actually filed, however, vary considerably from the days on which the complaints actually occurred. The variance between occurrence date and the filing date is attributable to the fact that relatively few complaints (30.7%) were filed on the same day as the date of the complaint incident. The most frequent days on which complaints were formally lodged were at the beginning of the week from Monday to Wednesday -- accounting for 54.6% of all complaints filed. Relatively few complaints were filed on Saturdays and Sundays, which account together for 13.6% of complaints. These data may be found in Table 3.

With respect to the time of day at which a complaint incident occurred, roughly 60% of the incidents leading to complaints took place between 6 p.m. and 3 a.m. (58.5%). The one time period which accounted for the greatest number of total occurrences was from midnight to 3 a.m. -- one quarter of all occurrences took place during this time period. The complete list of time of occurrences is presented in Table 4.

TABLE 2

DAY COMPLAINT INCIDENT OCCURRED

	No.	%
MONDAY	148	11.1
TUESDAY	175	13.1
WEDNESDAY	209	15.7
THURSDAY	192	14.4
FRIDAY	202	15.2
SATURDAY	202	15.2
SUNDAY	203	15.3
TOTAL	1331 *	100.0

* NOTE: When the total of the "number" column is less than the actual total for the data base (1366), the difference is due to the fact that some information required for the table was missing, thus reducing the total for that particular measure involved.

TABLE 3

DAY COMPLAINT FILED

	No.	%
MONDAY	240	17.6
TUESDAY	253	18.5
WEDNESDAY	253	18.5
THURSDAY	229	16.8
FRIDAY	205	15.0
SATURDAY	83	6.1
SUNDAY	103	7.5
TOTAL	1366	100.0

TABLE 4

TIME COMPLAINT INCIDENT OCCURRED

	No.	%
12:01 A.M. TO 3:00 A.M.	312	24.8
3:01 A.M. TO 6:00 A.M.	81	6.5
6:01 A.M. TO 9:00 A.M.	53	4.2
9:01 A.M. TO NOON	118	9.4
NOON TO 3:00 P.M.	112	8.9
3:01 P.M. TO 6:00 P.M.	157	12.5
6:01 P.M. TO 9:00 P.M.	185	14.7
9:01 P.M. TO 12:00 P.M.	239	19.0
TOTAL	1257	100.0

3. Time from Date of Occurrence to Date of Filing

The number of days from the date a complaint incident took place to the date the complaint was actually filed averaged 12.2 days. This figure is somewhat misleading, however, since over two-thirds of the complaints (71.0%), were filed within one week of the occurrence: 30.7% of the complaints were filed on the same day as the occurrence, while 16.2% were filed on the next day. 12.7% were filed two to three days later, while another 11.4% of the complaints were filed four to seven days after the occurrence. The data on the number of days from the date of occurrence to date of filing is presented in Table 5.

4. Location of Complaint Incident

52.1% of the incidents that led to the lodging of complaints against the police took place on the street. The next most frequent location was at a residence (18.9%). In order of declining frequency, incidents also occurred in: police buildings (11.5%), public buildings (11.2%), plazas or malls (2.2%), police vehicles (2.1%), and school yards (1.2%). The complete list of locations of occurrences leading to complaints may be found in Table 6.

TABLE 5

TIME FROM DATE OF OCCURRENCE TO DATE OF FILING

	No.	%
SAME DAY	411	30.7
1 DAY	217	16.2
2-3 DAYS	169	12.7
4-5 DAYS	90	6.8
6-7 DAYS	62	4.6
8-14 DAYS	98	7.3
15-21 DAYS	80	6.0
22-30 DAYS	51	3.8
31-45 DAYS	44	3.3
46-60 DAYS	23	1.7
61-90 DAYS	22	1.7
OVER 90 DAYS	70	5.2
TOTAL	1337	100.0

$\overline{X}$ DAYS = 12.2

TABLE 6

LOCATION OF COMPLAINT INCIDENTS

	No.	%
STREET	709	52.1
RESIDENCE	258	18.9
POLICE BUILDING	156	11.5
PUBLIC BUILDING	153	11.2
PLAZA OR MALL	30	2.2
POLICE VEHICLE	28	2.1
SCHOOLYARD	17	1.2
OTHER	11	0.8
TOTAL	1362	100.0

5. Police Divisions Involved in Complaints

The Police Division with the highest incidence of complaints was 52 Division, which accounted for 15.5% of all the complaints lodged. 14 Division had the next highest incidence with 9.8% of all complaints, followed by 55 Division with 9.1%. 31 Division accounted for 6.9% of all complaints while 53 Division accounted for 5.9% and 32 Division for 5.5%. The remaining Divisions all had 5.0% or fewer complaints lodged against their police officers. The full list of Police Divisions in which complaints occurred may be found in Table 7.

In an attempt to account for the rather high incidence of complaints arising out of 52 Division, one may point to its location in the downtown core, where there is considerably more activity than in other areas. The high number of contacts that officers of this Division have with the public could also contribute to a greater number of complaints arising out of this Division. Another factor may be that 52 Division has the largest number of police officers of any Division in Metropolitan Toronto.

The Police Division in which the complaint incident actually occurred was often the same as the one in which the complainant lived, or was adjacent to the Division where the complainant lived. 49.0% of the complainants

TABLE 7

POLICE DIVISION IN WHICH COMPLAINTS OCCURRED

POLICE DIVISION	No.	%
DIVISION 11	61	4.6
DIVISION 12	36	2.7
DIVISION 13	67	5.0
DIVISION 14	130	9.8
DIVISION 21	27	2.0
DIVISION 22	62	4.7
DIVISION 23	56	4.2
DIVISION 31	93	6.9
DIVISION 32	74	5.5
DIVISION 33	46	3.5
DIVISION 41	62	4.7
DIVISION 42	29	2.2
DIVISION 43	62	4.7
DIVISION 51	61	4.6
DIVISION 52	207	15.5
DIVISION 53	79	5.9
DIVISION 54	58	4.4
DIVISION 55	121	9.1
TOTAL	1331	100.0

lived in the same Police Division as that of the occurrence while 19.2% lived in a Division adjacent to the Division of the occurrence. 31.8% of the complaint incidents did not take place in a Division close to the complainant's residence.

6. Data on Complainants

The great majority of complainants were male (82.1%); female complainants comprised 17.9% of the total. Complainants tended to be young with roughly three quarters of them being 35 years of age or under: 40.8% were 25 years of age or under while 30.5% were 26 to 35 years of age. The full list of age categories of complainants may be found in Table 8.

The majority of complainants (81.6%) lived in unsubsidized housing while 7.0% lived in subsidized dwellings. This data is presented in Table 9.

20.0% of the complainants were allegedly or admittedly intoxicated or on drugs at the time of the complaint incident: 18.5% were allegedly or admittedly intoxicated while 1.5% were allegedly or admittedly on drugs.

TABLE 8

AGE OF COMPLAINANTS

	No.	%
UNDER 16 YEARS	22	1.9
16 TO 17 YEARS	45	3.9
18 TO 25 YEARS	408	35.0
26 TO 35 YEARS	357	30.5
36 TO 45 YEARS	200	17.1
46 TO 55 YEARS	99	8.5
56 TO 65 YEARS	30	2.6
OVER 65 YEARS	6	0.5
TOTAL	1167	100.0

TABLE 9

RESIDENCE OF COMPLAINANTS

	No.	%
UNSUBSIDIZED SINGLE/MULTIPLE DWELLING	759	58.5
UNSUBSIDIZED HIGHRISE	300	23.1
	1059	81.6
SUBSIDIZED SINGLE/MULTIPLE DWELLING	38	3.0
SUBSIDIZED HIGHRISE	52	4.0
	90	7.0
OTHER	148	11.4
TOTAL	1297	100.0

7. Types of Complaint Allegations

The average number of allegations made by a complainant was 1.9. 72.4% of the cases contained one (36.2%) or two (36.2%) allegations. Three, four or five allegations were made by 20.6%, 5.7% and 1.1% of the complainants respectively. Two complaints involved six and seven allegations.

The most frequent type of allegation lodged against a police officer was assault: roughly half of the complaints filed involved an allegation of assault by a police officer -- 40.3% complained of common assault while 9.2% complained of assault causing bodily harm. The second most frequent allegation was that of verbal abuse/incivility, with 47.4% of the complainants filing this type of allegation. The following four types of allegations also appeared with some regularity: harassment/oppressive conduct/threats 29.7%; irregularity in procedure 22.1%; mishandling or damage to property 9.8%; neglect of duty 9.7%; unlawful arrest 6.0% and unlawful search 5.8%. The complete list of types of allegations and the number of complainants who complained of each type may be found in Table 10.

8. Minority Aspect of Complainants

One aspect of the complaint, as seen from the complainant's perspective, was some form of racially

TABLE 10

TYPES OF COMPLAINT ALLEGATIONS FILED

	No.	%
ASSAULT	675	49.4
COMMON ASSAULT	550	40.3
ASSAULT BODILY HARM	125	9.2
VERBAL ABUSE/INCIVILITY	647	47.4
HARASSMENT/OPPRESSIVE CONDUCT/THREAT	406	29.7
IRREGULARITY IN PROCEDURE	302	22.1
MISHANDLING OR DAMAGE TO PROPERTY	134	9.8
NEGLECT OF DUTY	132	9.7
UNLAWFUL ARREST	82	6.0
UNLAWFUL SEARCH	79	5.8
TRAFFIC IRREGULARITY/IMPROPER EXERCISE OF DISCRETION	37	2.7
DECEIT	35	2.6
TRAFFIC IRREGULARITY BY OFFICER	30	2.2
CORRUPTION/THEFT/FRAUD	17	1.2
IRREGULARITY RE: EVIDENCE	11	0.8
INADEQUATE POLICE SERVICE	8	0.6
INTOXICATED	7	0.5
SEXUAL HARASSMENT	5	0.4
BREACH OF CONFIDENCE	4	0.3
NO FOLLOW-UP	4	0.3
OTHER	9	0.7
TOTAL RESPONSES	2624	192.2

NOTE: The total percentage of complaint allegations exceeds 100% due to the fact that some complainants lodged more than one allegation. The percentages reported above reflect the percentage of complainants who lodged each type of complaint allegation.

derogatory comment in 8.5% of the cases, and harassment by police of homosexuals in 1.2% of the cases. The large majority of complaints filed (90.3%) did not allege this type of abuse.

9. Precipitating Factors

The actual incident that led to or precipitated the complaint was also recorded in the Complaint Recording Form. The most common type of incident was a traffic violation: 31.1% of all complaints arose out of police officers stopping people for traffic violations. The second most frequent precipitating factor was a criminal investigation of a complainant by the police (30.7%). The only other precipitating factor which occurred with any regularity was an incident that occurred during the time of arrest: 16.2% of the complaints resulted from an incident that occurred during the arrest of the complainant. There appeared to be no apparent precipitating factor in 7.7% of the cases. The full list of precipitating factors is presented in Table 11.

10. Alleged Injuries and Damages

There were no injuries alleged in 63.7% of the complaints filed. For the remainder, the most frequent type of injury alleged was cuts or bruises: 33.2% of the

TABLE 11

FACTORS PRECIPITATING COMPLAINTS

	No.	%
TRAFFIC VIOLATION	425	31.1
CRIMINAL INVESTIGATION	419	30.7
ARREST	221	16.2
PARKING VIOLATION	47	3.4
INTERROGATION	44	3.2
REQUEST IDENTIFICATION	28	2.1
BYLAW INVESTIGATION	27	2.0
DOMESTIC MATTER	21	1.5
DURING COURT PROCEEDINGS	3	0.2
LANDLORD/TENANT DISPUTE	3	0.2
OTHER	23	1.7
NO APPARENT PRECIPITATING FACTOR	105	7.7
TOTAL	1366	100.0

complainants reported this type of injury. The remaining types of injuries alleged occurred with very little frequency: 4.1% complained of injuries or pain inflicted by handcuffs while 1.6% of the complainants reported fractures, 1.5% internal injuries, 1.4% damage to teeth, etc. The full list of alleged injuries to complainants may be found in Table 12.

The severity of the injuries was also recorded with respect to those complainants who reported alleged injuries: 43.7% of the injuries alleged were minor in nature (mild bruises, small lacerations - i.e. scratches); 48.9% of the injuries alleged were moderate (extensive bruising, cuts, swelling), while 7.4% of the injuries alleged were considered to be serious in nature (very extensive bruising, fractures, severe lacerations, severe swelling, internal injuries).*

Where injuries had been alleged, 36.7% of complainants attended a hospital.

Of those cases in which allegations of assault had been made, 15.8% made mention of a baton being used.

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* The degree of severity for the injuries recorded was a subjective judgement made on the part of the researcher coding this information.

TABLE 1[illegible]

INJURIES TO COMPLAINANTS

	No.	%
CUTS, BRUISES	454	33.2
HANDCUFF INJURIES	56	4.1
FRACTURES	22	1.6
TEETH	19	1.4
INTERNAL INJURIES	21	1.5
GENITALIA INJURIES	12	0.9
OTHER	3	0.2
NO INJURIES	870	63.7
TOTAL RESPONSES	1457	106.6

NOTE: The total number of injuries exceeds 100% due to the fact that complainants have alleged more than one injury.

Batons were allegedly used in a variety of ways: the police officer held the baton to the complainant's neck, jabbed, poked or hit the complainant with the baton.

The incidence of property damage claimed by complainants was relatively low. Only 8.7% of the complaints involved allegations of property damage. In 5.4% of the complaints, damage was considered to be minor in nature (damage estimated under $75 - small scratches, dents, etc.), while in 1.9% of the complaints, damage alleged was of moderate severity (damage estimated under $150 - broken windows, damaged doors, etc.). The remaining 1.4% of the cases involved allegations of serious property damage estimated at a value greater than $150.*

11. Photographs Taken

In cases of injury or property damage, no photographs were taken in 53.1% of the cases. This may be accounted for by the fact that the injuries alleged in many of these cases were no longer visible at the time the complaint was filed. In addition, where the alleged injury was internal, and thus not visible, no photographs would be taken.

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* The degree of severity for the property damage noted was a subjective judgement made on the part of the researcher coding this information.

Photographs were taken by the Police Identification Unit (often at the request of the Bureau) in 37.6% of the cases, by the Public Complaints Commissioner in 6.9% of the cases, and by the complainant or others in 2.4% of the cases.

It is noteworthy that the number of photographs taken in 1983 increased by almost 10% from 1982 (at which time there was an increase of 15% from the period before). These increases point to the success of the new investigative format under the Act which requires the police to photograph any injury or damage at the earliest possible opportunity. The data on photographs taken is presented in Table 13.

D. Dispositions of Complaints by the Chief of Police

The dispositions of the complaints in this sample are presented over several tables. The overall dispositions are presented in Table 14. 56.8% of the cases in this sample were formally resolved after a complete investigation had been conducted. This means that a decision was made by the Chief's designate regarding the complaint. 32.1% of the complaints were informally resolved to the expressed satisfaction of both parties, while 11.0% of the cases were withdrawn.

TABLE 13

PHOTOGRAPHS TAKEN OF INJURIES ALLEGED TO HAVE RESULTED FROM POLICE MISCONDUCT

	No.	%
BY POLICE IDENTIFICATION UNIT	182	37.6
BY PUBLIC COMPLAINTS COMMISSIONER	33	6.9
BY BUREAU	4	0.8
BY COMPLAINANT	4	0.8
BY OTHERS	4	0.8
NO PHOTOGRAPHS TAKEN	257	53.1
TOTAL	484	100.0

TABLE 14

DISPOSITION OF COMPLAINTS BY THE CHIEF OF POLICE

	No.	%
FORMAL RESOLUTIONS	777	56.8
INFORMAL RESOLUTIONS	438	32.1
COMPLAINT WITHDRAWN	150	11.0
OTHER	1	0.1
TOTAL	1366	100.0

1. Formal Resolutions

56.8% of the cases in the present sample were resolved formally. In 50 of the cases (6.5%) the Chief's designate took some action.

In 36 (4.6%) of the 50 cases, the officer was counselled and/or cautioned. The Police Force defines a "caution" as a form of discipline where the officer is warned that further misconduct may result in a charge pursuant to the Police Act. A "counsel" is used where the actions of the officer involved relatively minor infractions committed unintentionally or through inexperience. It means that a superior officer counsels the subject officer with a view to help him or her to improve performance. Both are forms of discipline and are recorded in the police officer's file which is retained at Headquarters.

In two cases (0.3%) the police officer was advised/ spoken to by superiors. This would occur where the officer's conduct was minimally objectionable; no notation of it is made in the officer's file at Headquarters.

In another nine cases (1.2%) the police officers involved were charged under the Police Act, while in the remaining three cases (0.4%) the police officers involved were charged under the Criminal Code.

The primary reason given by the Chief's designate for a finding of "no action warranted" was insufficient evidence to prove or disprove the allegation. This was the reason given in 67.2% of the formal resolutions. These cases generally involved an allegation by the complainant and a denial of that allegation by the police officer with no evidence to support either version of the incident. This does not mean that the Chief's designate allotted more weight to the police officer's version of the events, nor that he doubted the word or motive of either the complainant or the police officer. It does mean that the Chief's designate was unable to take action without sufficient evidence.

Other reasons for a finding of "no action warranted" were that the police officer's position had been verified independently by other witnesses (15.8%) and that the officer had acted lawfully (10.5%). These data may be found in Table 15.

In all cases formally resolved, the Chief of Police or the Chief's designate is required to give written reasons for the decision to the complainant, the subject officer and the P.C.C. The complainant has a right to

TABLE 15

ANALYSIS OF FORMAL RESOLUTIONS

	No.	%
No action warranted due to:		
Insufficient evidence to prove allegation	522	67.2
Officer's statement verified by independent witness/corroborating evidence	123	15.8
Officer acted lawfully	82	10.5
Officer counselled and/or cautioned	36	4.6
Officer charged under Police Act	9	1.2
Officer charged under Criminal Code	3	0.4
Officer advised/spoken to by superiors	2	0.3
TOTAL FORMAL RESOLUTIONS	777	100.0

request the Commissioner to review the Chief's decision if he or she is not satisfied with either the decision or the reasons given. During the two years ending December, 1983, 119 requests for review were made; 86 of those cases were closed.

2. Informal Resolutions

In 438 of the cases in the 1981-1983 sample the complaints were resolved informally, to the expressed satisfaction of both parties.

Prior to the Metropolitan Police Force Complaints Project Act, 1981, an informal resolution was simply recorded by the complainant signing a form indicating that the results of the investigation had been explained and that he or she was satisfied with the investigation that was conducted. The form contained no details of the actual investigation nor any indication of the manner in which the complaint was resolved. It was not necessary for the subject officer to sign the form. As a result, the system was open to criticism because it did not preclude the possibility of a complainant signing the form without knowing the officer's response to the complaint or the nature and extent of the investigation that was conducted.

Under the new Act, the officer in charge of the Bureau is required to consider whether a complaint can be resolved informally. In addition, complaints may be resolved informally prior to, during or after completion of the investigation. However, a complaint may only be resolved informally if both the complainant and the subject officer agree. Furthermore, they must signify their agreement and satisfaction with the informal resolution by signing a specially designed form.

The form allows for a detailed explanation of the investigation conducted, including the officer's response, as well as an explanation of the manner in which the complaint was resolved.

All informal resolutions are reviewed by the Public Complaints Commissioner.

3. Withdrawals

150 of the complaints in the 1981-1983 sample (11.0%) were withdrawn by the complainant.

This figure is low in comparison to the experience in other jurisdictions. For example, in its Triennial Review Report of 1980, the English Police Complaints Board reported that in 1978, 45% of all complaints were withdrawn.

The English system, which is presently being reviewed, did not contain an informal resolution procedure. Accordingly, the high percentage of withdrawals may also contain cases resolved informally. Nevertheless, this figure gave the English cause for concern, as a high percentage of withdrawals could lead to an inference that pressure was being brought to bear on complainants to withdraw.

An analysis was made of all complaints withdrawn during the first year of operation of the P.C.C. It was found that in 31.3% of the cases, the withdrawal was the result of an admission of error on the part of the complainant. This was usually attributed to the fact that the complainant was intoxicated at the time the complaint was made, and had no subsequent recollection of the event. In another 31.3% of the cases the reasons for the complainant's withdrawal were not known. 16.6% of the complainants who withdrew stated that they simply wanted to draw attention to the incident or put the matter on the record, rather than follow through with an investigation. The remaining cases (20.78%) do not fall into any discernable category.

21% of the complainants who withdrew had retained lawyers. It is known that the withdrawal of some complaints is connected with the criminal justice plea bargaining process. Although some such cases have come to the P.C.C.'s attention, the actual frequency of this occurrence cannot be acertained by statistics, as no such data is available.

E. Requests For Review by the Public Complaints Commissioner

Between December 21, 1981 and December 20, 1983, 119 complainants requested a review by the P.C.C. 86 reviews had been completed by the end of this period - 17 reviews in 1982 and 69 in 1983. The 69 completed reviews in 1983 comprised 9.1% of all the closed cases for that year.

Of the 86 completed reviews, the Commissioner decided that no further action was warranted in 57 or 66.3% of these cases. In another 5, or 5.8% of the cases, the Commissioner substantially agreed with the complainant but did not feel that it was in the public interest to order a Police Complaints Board hearing. 10, or 11.6% of the remaining cases were withdrawn by the complainant, while the Commissioner resolved the matter informally in another 9 (10.5%) cases. In 5, or 5.8% of the 86 cases, the Commissioner ordered a Police Complaints Board hearing (all but one hearing were three-person Board hearings). These data may be found in Table 16.

TABLE 16

OUTCOME OF REVIEW OF COMPLAINT BY PUBLIC COMPLAINTS COMMISSIONER

	No.	%
NO ACTION WARRANTED	57	66.3
CASE WITHDRAWN	10	11.6
INFORMAL RESOLUTION	9	10.5
NOT IN PUBLIC INTEREST TO CONVENE BOARD HEARING	5	5.8
THREE PERSON BOARD	4	4.6
ONE PERSON BOARD	1	1.2
TOTAL	86	100.0

As noted above, 33 reviews had not yet been completed by December 20, 1983. As of March 31, 1984, 10 additional Police Complaints Board hearings had been ordered by the Commissioner.

F. Length of Time Between Various Stages in the Complaints Process

1. Time from Date Complaint Filed to Date Copy Received at Public Complaints Commission

The number of days from the date a complaint was filed at the Police Complaints Bureau or police station to the date the P.C.C. received a copy of the complaint was recorded. In 24.3% of the cases a copy of the complaint was received at the Commission office on the same day as the date it was filed. Another 37.8% were received within one or two days of filing, while 25.3% were received within three or four days. In total, the vast majority of complaint forms (98.4%) were received within one week of filing. The average number of days from the date of filing to the date a copy of the complaint was received at the P.C.C. was 2.5 days. The full list of days may be found in Table 17.

TABLE 17

TIME FROM DATE COMPLAINT FILED TO DATE COPY RECEIVED BY P.C.C.

	No.	%
SAME DAY	316	24.3
1-2 DAYS	490	37.8
3-4 DAYS	329	25.3
5-7 DAYS	143	11.0
8-15 DAYS	16	1.2
19-31 DAYS	3	0.2
65 DAYS	1	0.1
TOTAL	1298	100.0

$\overline{X}$ DAYS = 2.5

2. Time from Complaint Filing to Interim Report

An interim report on the investigation of a complaint must be completed by the Public Complaints Investigation Bureau of the Police Force and forwarded to the complainant, the subject officer, and to the P.C.C. within 30 days of the date the complaint was filed. For a number of complaints, the investigation was completed within the 30-day period. Thus, no interim report was required since the final report served the same purpose. For those cases in which an interim report was completed (731), the average number of days from the date a complaint was filed to the date of the interim report was 30.4 days. Thus, the processing of a complaint by the police with respect to the completion of an interim report was generally very close to the prescribed period of 30 days. These data may be found in Table 18. Most of the cases wherein the 30-day period was exceeded were cases where the complaint originated outside of the Bureau and time was spent in transmitting the complaint.

TABLE 18

TIME FROM COMPLAINT FILING TO INTERIM REPORT

	No.	%
6-21 DAYS	11	1.5
22-30 DAYS	363	49.6
31-40 DAYS	339	46.4
41-79 DAYS	18	2.5
TOTAL	731	100.0

$\overline{X}$ DAYS = 30.4

3. Time from Complaint Filing to Final Report and Chief's Decision

The total number of days from the date a complaint was filed to the date of the final report* concerning the outcome of that complaint was also recorded. In 1.2% of the cases, the final report was completed on the same day as the day the complaint was filed. This occurred in cases where an informal resolution was achieved immediately at the time the complaint was filed. In 41.7% of the cases, a final report was completed within 30 days of the date of filing. Another 28.5% of the cases were completed with a final report produced within 60 days of filing. Thus, in over two-thirds of the cases (70.2%) a final report was produced within two months of filing. In well over three-quarters of the cases (83.7%) a final report was completed within 90 days of filing. The average number of days from the date a complaint was filed to the date a final report was completed was 55.1 days. These data may be found in Table 19.

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* "Final report" in this section refers to either a final investigative report of the Bureau or the Record of Informal Resolution.

TABLE 19

TIME FROM COMPLAINT FILING TO FINAL REPORT

	No.	%
SAME DAY	17	1.2
1-14 DAYS	180	13.2
15-30 DAYS	373	27.3
31-60 DAYS	389	28.5
61-90 DAYS	184	13.5
91-226 DAYS	188	13.7
227-359 DAYS	35	2.6
TOTAL	1366	100.0

$\overline{X}$ DAYS = 55.1

The number of days from the final report to the date of the Chief's decision averaged 23.6 days. In 27.5% of the cases, the Chief's decision came one week after the final report. In over three-quarters of the cases (71.6%) the Chief's decision was formulated within 30 days of the final report. These data may be found in Table 20.

The total number of days from the above-noted two periods -- from the date the complaint was filed to the date of the Chief's decision, average 96.6 days.

4. Time from Chief's Decision to Request for Review

Any complainant has the right to request the P.C.C to review the Chief's decision. The average number of days from the date of the Chief's decision to the date of a request for review was 30.2 days. The number of days ranged from the same day in one case to a maximum of 274 days in another case. In 62.4% of the cases requests for review were made within 30 days of the Chief's decision. These data may be found in Table 21.

TABLE 20

TIME FROM FINAL REPORT TO CHIEF'S DECISION

	No.	%
SAME DAY	1	0.1
1-7 DAYS	212	27.4
8-21 DAYS	198	25.5
22-30 DAYS	144	18.6
31-60 DAYS	179	23.1
61-90 DAYS	13	1.7
OVER 90 DAYS	28	3.6
TOTAL	775	100.0

$\overline{X}$ DAYS = 23.6

TABLE 21

TIME FROM CHIEF'S DECISION TO REQUEST FOR REVIEW

	No.	%
SAME DAY	1	1.2
2-7 DAYS	24	28.2
8-14 DAYS	14	16.5
15-30 DAYS	14	16.5
31-60 DAYS	18	21.2
61-90 DAYS	7	8.2
OVER 90 DAYS	7	8.2
TOTAL	85	100.0

$\overline{X}$ DAYS = 30.2

5. Time from Request for Review to Decision by Public Complaints Commissioner

One perennial concern in any system that attempts to resolve a problem is the length of time it takes for a resolution to be reached. The P.C.C. is conscious of the fact that any undue delay in the progress of a complaint will result in strain on the respondent officer and dissatisfaction on the part of the complainant.

The time involved from the date of a complainant's request for review to the date of the decision by the Public Complaints Commissioner averaged 126.1 days. 20.0% of the cases were completed within two months of the request for review while another 48.3% were completed within five months of the request. The remaining 31.7% of the cases required more than five months to complete. These data may be found in Table 22.

The 126.1 day average is a matter of some concern. It is true that a good review, which may include interviews with witnesses, analysis of forensic evidence and research into legal issues, takes time. Further, the course of a review may be prolonged by any number of factors, from the unavailability of witnesses to the fact that a trial in progress may provide additional information and must be monitored.

TABLE 22

TIME FROM REQUEST FOR REVIEW TO P.C.C. DECISION

	No.	%
12 DAYS	1	1.2
31-60 DAYS	16	18.8
61-90 DAYS	19	22.4
91-120 DAYS	14	16.5
121-150 DAYS	8	9.4
151-180 DAYS	7	8.2
181-210 DAYS	8	9.4
OVER 210 DAYS	12	14.1
TOTAL	85	100.0

$\overline{X}$ DAYS = 126.1

Other factors that account in part for the length of time it takes to complete a review have been isolated. One factor, for example, was the completion of the lengthy Hold-Up Squad report. Another is the fact that the number of complainants choosing to lay complaints at the P.C.C. office (and thus requiring lengthy intake interviews) has increased from 20% to over 40% in the past two years.

However, the Commissioner feels that 90 days is a more reasonable maximum time for the completion of a review, and steps are being taken to decrease the average length of a review to not more than 90 days.

G. Police Officers Involved in Complaints

This section consists of a discussion of the police officers that were involved in the complaint allegations filed. 1,964 police officers were involved in closed cases over a period of two years. Those officers who could not be identified were treated as missing data, not included in the total number of police officers. On the average, there were 1.8 police officers involved per complaint filed.

In 54.9% of the cases, only one police officer was involved, while two officers were involved in 30.9% --

this accounted for 85.8% of the total. The data on the number of police officers involved per complainant may be found in Table 23.

In 70.2% of the complaint incidents, the police used their own discretion to intervene. In 29.8% of the cases, the police were called, that is, their assistance was requested and a complaint incident subsequently arose out of the situation.

In 59.0% of the cases the complainants were not in police custody at the time of the complaint incident. In 41.0% of the cases the complainant was either being taken into custody or was actually in custody at a Police Station at the time of the complaint incident.

The great majority of police officers (98.0%) were on duty at the time that the complaint incident occurred. Only 2.0% of the officers were off duty during the incident.

1. Rank of Police Officers Involved in Complaints

Very few of the police officers involved in complaints were senior officers: 2.6% were staff inspectors or staff sergeants (one staff superintendent), while 9.1% were ranked as sergeants. Thus, only 11.7% of the total number

TABLE 23

NUMBER OF POLICE OFFICERS INVOLVED PER COMPLAINT

POLICE OFFICERS	No.	%
1	654	54.9
2	368	30.9
3	80	6.7
4	63	5.3
5	12	1.0
6	8	0.6
7	1	0.1
8	6	0.5
TOTAL	1192	100.0

$\overline{X}$ = 1.8 OFFICERS

of police officers involved in the complaints occupied a rank higher than constable. The majority of the officers complained about were of the rank of police constable first class (75.8%). The remaining officers were second, third, or fourth class constables. These data may be found in Table 24.

2. Years of Service for Police Officers Involved in Complaints

9.6% of the police officers involved in complaints had one to two years of service while 18.7% had three to five years of service with the Force. The majority, 59.7%, had six to fifteen years of experience with the Force: 46.0% were with the Force six to ten years, while 13.7% had been with the Force eleven to fifteen years. The remaining 12.0% had been with the Force for over sixteen years. These data may be found in Table 25.

3. Disposition for Officers Involved in Complaints

28.2% of the police officers involved in complaints entered into informal resolutions. 68.6% of the remaining officers were subject to a complete investigation followed by a decision of the Chief. 4.7% of the officers were spoken to, advised, counselled and/or cautioned by their superiors as a result of the complaint while another 0.7%

TABLE 24

RANK OF POLICE OFFICERS INVOLVED IN COMPLAINTS

	No.	%
STAFF SUPERINTENDENT	1	0.1
STAFF INSPECTOR	5	0.2
STAFF SERGEANT	46	2.3
SERGEANT	178	9.1
CONSTABLE 1	1488	75.8
CONSTABLE 2	118	6.0
CONSTABLE 3	112	5.7
CONSTABLE 4	16	0.8
TOTAL	1964	100.0

TABLE 25

YEARS OF SERVICE FOR OFFICERS NAMED IN COMPLAINTS

	No.	%
UNDER 1 YEAR	22	1.1
1 TO 2 YEARS	166	8.5
3 TO 5 YEARS	366	18.7
6 TO 10 YEARS	900	46.0
11 TO 15 YEARS	267	13.7
16 TO 20 YEARS	132	6.7
OVER 20 YEARS	104	5.3
TOTAL	1957	100.0

were disciplined under the Police Act and the remaining 0.2% charged with a criminal offence under the Criminal Code. This data is presented in greater detail in Table 26.

H. Criminal Charges

1. Criminal Charges Against Complainant

It should be noted that only three charges of public mischief were laid by the police against any of the complainants in our sample (0.2%) as a result of filing a complaint. Concern about this had been expressed in public debate over the Act. It was argued that the threat of a public mischief charge was a powerful deterrent to any potential complainant. The experience in the first year where no public mischief charges were laid, as well in the second year where only three such charges were laid, has not validated the above concern.

In fewer than one third of the incidents giving rise to complaints (32.1%), the police laid criminal charges against complainants -- driving charges, obstruct police, property offences, etc. The full list of criminal charges may be found in Table 27. The majority of these charges (99.3%) were laid before a complaint had been filed by the complainant.

TABLE 26

DISPOSITIONS MADE BY CHIEF OF POLICE FOR OFFICERS INVOLVED IN COMPLAINTS

	No.	%
FORMAL RESOLUTION		
NO ACTION WARRANTED	1350	68.6
OFFICER COUNSELLED AND/OR CAUTIONED	44	2.2
TOTAL FORMAL RESOLUTIONS	1394	70.8
INFORMAL RESOLUTION		
INFORMAL RESOLUTION	505	25.7
INFORMAL RESOLUTION & OFFICER ADVISED/SPOKEN TO	43	2.1
INFORMAL RESOLUTION & OFFICER COUNSELLED AND/OR CAUTIONED	7	0.4
TOTAL INFORMAL RESOLUTIONS	555	28.2
POLICE ACT CHARGES	14	0.7
CRIMINAL CHARGES	4	0.2
OTHER	1	0.1
TOTAL	1968	100.0

TABLE 27

CRIMINAL CHARGES LAID BY POLICE AGAINST COMPLAINANTS

	No.	%
NO CRIMINAL CHARGE	927	67.9
PROPERTY OFFENCE	101	7.4
OBSTRUCT POLICE	98	7.2
DRIVING VIOLATION	85	6.2
INTOXICATED, DISORDERLY	83	6.1
ASSAULT	44	3.2
PUBLIC MISCHIEF	3	.2
OTHER	25	1.8
TOTAL	1366	100.0

2. Criminal Charges Against Police Officers

In 15 cases (1.1%), criminal charges were laid against police officers by complainants. In 11 of these cases the charge laid was common assault and in the remaining 4 cases, the charge was assault causing bodily harm. 6 of the 15 cases were withdrawn before they went to trial. In 8 cases the charges were dismissed by the trial Judge while in one case the officer was found guilty as charged. This officer was given a conditional discharge, with psychological counselling as a condition of his probation. The officer was also charged and convicted under the *Police Act*, and was demoted in rank.

APPENDICES

APPENDICES

Page

I Ontario Regulation 854/81 i

II Examples of Forms and Letters Used in Complaint System ii

  a) Form 1 -- Complaint Form ii

  b) Form 2 -- Summary of Procedure iii

  c) Form 3 -- Record of Informal Resolution v

  d) Form 4 -- Interim Report vii

  e) Form 4 -- Final Report viii

  f) Decision of Chief's Designate xvi

III Report of Review by Public Complaints Commissioner xix

IV Examples of Response by the Police Force to Recommendations of the Public Complaints Commissioner xxx

  a) Re Morrish Road Incident xxx

  b) Re Arrest for Breach of the Peace xxxii

V Public Education and Outreach xxxvi

  a) Brochure Issued by Public Complaints Commissioner - "Contact" xxxvi

  b) Brochure Issued by Public Complaints Commissioner - "How to File a Police Complaint" xL

  c) Advertisement, 1982 (English) xLii

  d) Advertisement, 1982 (Punjabi) xLiii

  e) Advertisement, 1984 (English) xLiv

  f) Advertisement, 1984 (Italian) xLv

  g) Letter in response to educational session at high school xLvi

  h) Letter in response to educational session at legal clinic xLvii

APPENDICES

Page

VI Public Comment on the Complaints System xLviii

- a) Letters in response to a critical letter to the Editor, *Globe and Mail* xLviii
- b) Editorial, *Share*, 1983 L

APPENDIX I

Ontario Regulation 854/81 (General)

EXTRACT FROM ONTARIO GAZETTE

THE METROPOLITAN POLICE FORCE COMPLAINTS PROJECT ACT, 1981

O. Reg. 854/81.
General
Made—December 17th, 1981.
Filed—December 22nd, 1981.

REGULATION MADE UNDER THE METROPOLITAN POLICE FORCE COMPLAINTS PROJECT ACT, 1981

GENERAL

1.—(1) A complaint shall be recorded in Form 1.

(2) The statement to be furnished under subsection 6 (2) of the Act to the person making the complaint shall be in Form 2. O. Reg. 854/81, s. 1.

2. The record of an informal resolution of a complaint shall be in Form 3. O. Reg. 854/81, s. 2.

3. An interim or final investigation report shall be in Form 4. O. Reg. 854/81, s. 3.

4. An investigation under section 9 of the Act shall be pursued quickly and diligently and the investigator shall endeavour to obtain all information that may have a bearing on the complaint. O. Reg. 854/81, s. 4.

5. All information and evidence obtained in the investigation shall be recorded and preserved. O. Reg. 854/81, s. 5.

6. The investigator shall endeavour to interview the person making the complaint and the police officer concerned and to obtain written statements from them. O. Reg. 854/81, s. 6.

7. The investigator shall endeavour to interview the witnesses named by the person making the complaint and the police officer concerned and witnesses located as a result of the investigation and to obtain written statements from such witnesses. O. Reg. 854/81, s. 7.

8. The investigator shall endeavour to obtain photographs of all personal injuries or damage to property alleged and any other information and evidence that is relevant to the investigation and could only be preserved by way of photographs. O. Reg. 854/81, s. 8.

9. Where appropriate, the investigator shall attend at the scene of the alleged misconduct and obtain any relevant evidence. O. Reg. 854/81, s. 9.

10. The investigator shall endeavour to obtain all hospital records and medical reports related to the complaint. O. Reg. 854/81, s. 10.

11. The investigator shall make notes during or as soon as possible after completion of each investigative step and the notes shall be preserved. O. Reg. 854/81, s. 11.

12. Any information, notes or evidence, except physical evidence, that is required to be preserved under sections 5 and 11 shall be retained for a period of two years after the complaint is finally disposed of. O. Reg. 854/81, s. 12.

APPENDIX II(a)

Complaint Form (1)

THE METROPOLITAN POLICE FORCE COMPLAINTS PROJECT ACT, 1981

COMPLAINT

DATE and TIME REPORTED

Day Month Year Time

Nº 9760

COMPLAINANT

Surname First Name Initial(s) Date of Birth Sex Marital status

Home address Postal Code Telephone No Residence Business address Postal Code Telephone No Business

Date of incident Time Location Division

DETAILS OF INCIDENT (must be typewritten or printed)

SAMPLE SAMPLE SAMPLE

(ii)

Details of injuries sustained

Use reverse side if more space required

Photographs taken NO ☐ YES ☐

Attending Physician

Name Address Telephone No Hospital attended Date attended

WITNESS(ES)

Name Address Telephone No

Did complainant require an interpreter? YES ☐ NO ☐ Language Interpreter's name and address Telephone No

OFFICER(S) INVOLVED

Form 2 given to complainant ☐ Yes ☐ No If no, state reason

Name and Rank Number Unit Platoon

COMPLAINT RECEIVED BY

Name Rank Number Unit

I CERTIFY THAT THE INFORMATION I HAVE GIVEN HEREIN IS TRUE

Signature of Complainant

DISTRIBUTION: Quadruplicate

WHITE Public Complaints Investigation Bureau
BLUE: Public Complaints Commissioner
PINK Unit Commander of officer(s) in allegation
YELLOW S/Supt. (Supt) of officer(s) in allegation

OVER

APPENDIX II(b)

Form 2

METROPOLITAN POLICE FORCE COMPLAINTS PROJECT ACT, 1981

POLICE COMPLAINT PROCEDURES AND RIGHTS OF A PERSON MAKING A COMPLAINT

To the Complainant:

This statement briefly sets out the procedures that will be followed upon receipt of your complaint against a member of The Metropolitan Toronto Police Force and your rights under the **Metropolitan Police Force Complaints Project Act, 1981.**

Who Sees Your Complaint

1. No matter where your complaint is recorded a copy of the complaint will be sent to the Public Complaints Commissioner and the Public Complaints Investigation Bureau (the Bureau) of the Metropolitan Toronto Police Force.
2. The police officer concerned will be informed of the substance of the complaint unless the investigation might be adversely affected if the police officer is so informed.

Informal Resolution

3. The person in charge of the Bureau will consider whether your complaint can be resolved informally and if this is possible he will attempt to do so, but only if he has your consent and the consent of the police officer concerned.
4. No complaint can be resolved informally unless both you and the police officer concerned agree in writing to the resolution.

Investigations and Reports

5. If the complaint is not resolved informally, the Bureau will investigate the complaint. The investigator will interview you, the police officer concerned and any other witnesses.
6. You will receive a report not later than thirty days after you make your complaint and on a monthly basis thereafter unless the investigation of the complaint might be adversely affected by a report or there are no new matters to report. The Public Complaints Commissioner will also receive these reports.
7. If at any time you are not satisfied with the manner in which your complaint is being handled you may contact the Office of the Public Complaints Commissioner, telephone: 963-1141
8. In certain situations the Public Complaints Commissioner may decide to do his own investigation before the Bureau completes its investigation.
9. When the Bureau investigation has been completed, a final report will be sent to you, the Public Complaints Commissioner, the chief of police and the police officer concerned.

Decision of the Chief of Police

10. The chief of police or his designate will review all investigation reports and make one of the following decisions:

    i. Order further investigation.

    ii. Decide that no further action is warranted.

    iii. Cause a charge to be laid against the police officer and refer the matter to the Crown Attorney for prosecution.

    iv. Refer the matter to the Police Complaints Board for a hearing.

    v. Cause disciplinary proceedings to be taken against the police officer under the **Police Act.**

    vi. Counsel or caution the police officer regarding his conduct.

11. You will be informed in writing of the decision made by the chief of police.

Review By Public Complaints Commissioner

12. If you are not satisfied with any of the following decisions you may request the Public Complaints Commissioner to review the matter:

    i. The decision of the chief of police that no further action is warranted.

    ii. The decision of the chief of police to counsel or caution the police officer regarding his conduct.

    iii. The decision made in a disciplinary proceeding under the **Police Act.**

13. Upon receipt of you request, the Public Complaints Commissioner will review the matter, and his staff have broad powers to investigate. Documents must be made available, and individuals can be subpoenaed to answer questions.

14. After his review, the Public Complaints Commissioner may order a hearing before the Police Complaints Board where he feels that the public interest requires it. If he decides that there should not be a hearing, he will give you his reasons. The Public Complaints Commissioner will write to you, the chief of police and the police officer concerned about his decision.

Police Complaints Board Hearing

15. If a Police Complaints Board hearing is ordered, you will be notified in writing of the date and place of the hearing. You have a right to attend and take part in the hearing and to be represented by counsel or an agent. You will also be given an opportunity, prior to the hearing, to examine any written or documentary evidence or any report that will be given in evidence at the hearing. The hearing will be open to the public. You will receive a copy of the Board's decision.

APPENDIX II(c)

Form 3

Mock Sample

METROPOLITAN POLICE FORCE COMPLAINTS PROJECT ACT, 1981

RECORD OF INFORMAL RESOLUTION OF COMPLAINT

Date of Complaint: May 1, 1982

File No.: 1-6-82 (P.C.C. File No. 216)

Complainant: John Doe

Name(s) of Officer(s) Concerned: P.C. John Smith, #111, No. 3 Traffic
(Include Rank, No. & Division)
Sgt. John Jones, #444, 31 Division

Resolved by: Staff Sgt. Jackson, #555, --- Public Complaints Investigation Bureau

Summary of Complaint and Investigation: The Complainant was involved in an accident on May 1, 1982. P.C. Smith and Sgt. Jones arrived on the scene and approached the Complainant in order to interview him. The first words that P.C. Smith uttered were, "You're an a......, look what you did". The Complainant also alleges that Sgt. Jones used profanity against him. Sgt. Jones then asked him for his driver's licence and proof of insurance. The Complainant feels that as he was not at fault for the accident Sgt. Jones should not have required him to produce his driver's licence and proof of insurance.

On May 8, 1982, received accident report form.

May 9, 1982, spoke with P.C. Smith who advised that prior to speaking with the Complainant he had to comfort the other driver involved in the accident who was badly injured as her head had banged against the windshield and caused excessive bleeding. He admits that he swore at the Complainant.

May 10, 1982, interviewed Sgt. Jones and he denies swearing at the Complainant, admits asking the Complainant for his driver's licence and proof of insurance but explains that this is lawful under the provisions of the Highway Traffic Act.

May 11, 1982, spoke with Complainant and arranged for a meeting on June 1, 1982.

PC 003 (Rev. 10/82)

Manner in which Complaint Resolved: Both the Complainant and P.C. Smith attended before the writer at which time P.C. Smith apologized to the Complainant for his outburst. The Complainant accepted P.C. Smith's apology and they shook hands.

The writer advised the Complainant of Sgt. Jones' denial and the Complainant agreed that he may have been mistaken about whether or not Sgt. Jones swore at him.

The writer advised the Complainant about Sgt. Jones' explanation that it was proper and lawful for him to ask for a driver's licence and proof of insurance under the Highway Traffic Act. The writer showed the Complainant the relevant sections of the Highway Traffic Act. The Complainant was satisfied with Sgt. Jones' explanation.

Both the Complainant and P.C. Smith signed Form 3 on June 1, 1982 and Sgt. Jones signed Form 3 on June 2, 1982.

I have read the record of informal resolution as described above.

I agree with the contents and am satisfied with the resolution.

Dated at Toronto, this 1st day of June, 19 82.

Witnessed by:

"Staff Sgt. Jackson, #555"	"John Doe"	June 1/82
	Signature of Complainant	(date)
"Staff Sgt. Jackson, #555"	"Sgt. John Jones"	June 2/82
"Staff Sgt. Jackson, #555"	"P.C. John Smith"	June 1/82
	Signature of Officer Concerned	(date)

APPENDIX II(d)

Example of Interim Report

Page 1 of 3 pages

Form 4

METROPOLITAN POLICE FORCE COMPLAINTS PROJECT ACT, 1981

Report

1. File No.: ____________

2. Date of Report: November 4, 1982.

3. Type of Report: ☒ Interim ☐ Final

4. Name of Complainant: ____________

5. Name(s) of Police Officer(s) Involved (Include Rank and No.) ____________

6. Name of Investigator: Staff Sergeant

Summary of Complaint

7. Date, Time and Location:
Saturday October 2, 1982, 1:30 a.m., East side of Millwood Bridge

8. Description of Alleged Misconduct:

The complainant was arrested for driving while impaired. He was manhandled to the ground, handcuffed and taken for a breathalyzer test. After he had blown once into the machine, the officer started to adjust the dials and when the complainant questioned this, he was grabbed by the hair, whacked on the hand and taken to the cells, charged with refusing to supply a sample.

Form 4 Page 2 of 3 pages

Investigation

9.

Date	Location	Type of Investigation and Information Obtained
October 4/82	Bureau	Complaint Form received at the Public Complaints Investigation Bureau.
October 5/82	Telephone	Investigator contacted the complainant and discussed the aspects of the complainant. Complainant does not agree to an Informal Resolution.
October 16/82	Telephone	Investigator obtained particulars from the Record of Arrest.
October 17/82	Telephone	Copy of Record of Arrest requested.
October 17/82	Mail	Officers reports requested.
October 19/82	Bureau	Record of Arrest received.
October 27/82	Telephone	Investigator spoke with the complainant who advised his trial date was November 19, 1982. The complaint was discussed and the status of the investigation.
October 29/82	Bureau	Some officers reports received, returned for clarification.

Form 4 Page 3 of 3 pages

11. Description and Analysis of Documentary and Physical Evidence obtained

Type of Evidence	Description	Analysis
Record of Arrest	For complainant	Indicates time, date, place of arrest, charges, names of officers and that the complainant had no apparent injuries and no complaints.

INTERIM REPORT ONLY

INVESTIGATION CONTINUING.

Dated at TORONTO, this 4th day of November, 1982.

"Signature of Investigator"
Signature of Investigator

Distribution: Complainant
Police Officer(s) Involved
Office of The Public Complaints Commissioner
File

APPENDIX II(e)

Example of Final Report

Page 1 of 6 pages

Form 4

METROPOLITAN POLICE FORCE COMPLAINTS PROJECT ACT, 1981

Report

1. File No.: ______________________

2. Date of Report: December 6, 1982.

3. Type of Report : ☐ Interim ☒ Final

4. Name of Complainant: ______________________

5. Name(s) of Police Officer(s) Involved (Include Rank and No.) ______________________

6. Name of Investigator: Staff Sergeant

Summary of Complaint

7. Date, Time and Location:
Saturday, October 2nd, 1982 at 1:30 a.m.
East side of Millwood Bridge

8. Description of Alleged Misconduct:

See Interim Report dated November 4th, 1982 for Summary.

PC 004 (02/82)

Form 4 Page 2 of 6 pages

Investigation

9.

Date	Location	Type of Investigation and Information Obtained
December 3/82		See Interim Report for Investigation to date.
December 3/82	Telephone	Investigator contacted the complainant and advised that the investigation was completed.

10 Summaries of Statements of Complainant, Police Officer(s) and Witnesses

Person Interviewed

Summary of Statement
(include all relevant details)

.....

He was working with.....and they were on their way to a call.

He observed a van in front that appeared to be going well over the speed limit.

..... being the driver of the scout car, accelerated to a speed of 100 km/h and the van was still pulling away.

The van stopped and ..... approached the driver and he approached the passenger side of the vehicle.

The complainant got out of the van and began to speak with .... advised the complainant he had been stopped for speeding, the complainant denied this.

He detected the smell of an alcoholic beverage coming from the complainant's breath and his speech seemed to be slurred.

..... advised the complainant he was under arrest for impaired driving and took hold of the complainant's right arm and asked him to go to the rear of the police car.

The complainant said, "No, I don't think you have the right."

He then took hold of the complainant's left arm after the complainant had again refused to go.

The complainant was placed up against the side of the car in order to search him. The complainant refused and folded his arms in front of himself when the officers went to handcuff him. The complainant suddenly pushed away from the side of the car and the officer was knocked to the pavement. The officer still had hold of the complainant and, as he fell, he managed to pull the complainant down.

While on the ground the officers managed to get the complainant's arms behind his back and place the handcuffs on him and search him. The complainant was placed in the rear of the scout car.

He went to the complainant's van and searched the interior and located full and empty bottles of beer. He then secured the complainant's vehicle as

ii) Summaries of Statements of Complainant, Police Officer(s) and Witnesses

Person Interviewed	Summary of Statement (include all relevant details)
(con't)	best he could as two locks were not working. The complainant was then transported to ..... for breath samples. At the station the complainant was viewed. The Viewing officer again advised the complainant why he had been arrested. The complainant was placed in a room and later taken for breath tests. The complainant was later returned to the officers. The officer was advised that the complainant had refused to give suitable samples for an analysis to be made of his breath. The complainant was then transported back to ..... , paraded before a Sergeant and placed in the cells to sober up.
.....	He corroborates the statement of ..... and further adds, when the complainant was placed in the room at the station he requested a telephone call. The officer began dialing the number and the complainant then changed his mind and stated he would call his wife later. The complainant also advised that he wished to call his lawyer. The officer informed the complainant that now was the time to call his lawyer, prior to the breath test. The complainant refused the call.
.....	He was the breathalyzer officer and the complainant was brought before him. He interviewed the complainant, asked the complainant to supply a breath sample, which he did and the officer obtained a reading of 130 mgms. The complainant then stated he wanted to see how the machine worked and his attitude became very abusive. The complainant would not listen to anything the officer said to him. He began explaining how the machine worked and the complainant started to put his hands on the breathalyzer instrument and started to manipulate the balance wheel. He knocked the complainant's hand from the instruments and warned him not to touch the instrument. The complainant then began

10 Summaries of Statements of Complainant, Police Officer(s) and Witnesses

Person Interviewed	Summary of Statement (include all relevant details)
	to interfere with the instrument and he was again warned. The officer then knocked the complainant's hand away again.
	The complainant again put his hand over the instrument and kept interfering with it, and was again warned.
	He realized if he did not get the complainant out of the room, there would be a good possibility the machine would have been damaged.
	He told the complainant to get out of the office, but he refused to leave. He then took hold of the complainant by the scruff of the neck and pulled him out of the seat and handed him over to the arresting officers.
	During the time the complainant was in his presence he was arrogant, abusive and kept denying he was impaired.
	After the complainant was removed from the office, he checked the machine and discovered the complainant had broken the bubbler and, without this, it would have given a wrong reading.
	He denies grabbing the complainant by the hair.
Sergeant from	The complainant was brought before him, interviewed and then placed into a room to be interviewed by the Breathalyzer Technician.
	The complainant made no complaint to him about the arresting officers or any complaint of injury.
	The complainant did not complain about ..... before being returned to .....
Sergeant, No.	The complainant was brought before him and he observed that the complainant was under the influence of something, he later discovered to be alcohol.
	The complainant was belligerent and was placed in the cell until the effects of the drink had worn off.
	At the time of the complainant's release he was an entirely different person and was most co-operative.
	As the complainant was walking out the door he

11. Description and Analysis of Documentary and Physical Evidence obtained

Type of Evidence	Description	Analysis
	inquired where Headquarters was, so that he could complain. He advised the complainant as to the location.	
Station Operator	He observed the complainant when he was brought into the booking hall. The complainant was given a phone call which he signed for and was then placed in a cell to sleep off the effects of alcohol.	
Record of Arrest	The complainant was arrested for Impaired Driving and Refuse Samples. Medical Notes indicates no apparent injury, advised of rights and no complaints.	
Alcohol Influence Report, for the complainant	Indicates one reading had been taken and then the complainant was removed from the office, as he was interfering with the machine.	

THE CHIEF OF POLICE OR HIS DESIGNATE WILL REVIEW THIS INVESTIGATION REPORT AND YOU WILL BE NOTIFIED OF HIS DECISION IN DUE COURSE.

Dated at TORONTO, this 6th day of December, 19 82.

"Signature of Investigator"
Signature of Investigator

Distribution: Complainant
Police Officer(s) Involved
Office of The Public Complaints Commissioner
File

APPENDIX II(f)

Address all correspondence to the Chief of Police

Metropolitan Toronto Police

JOHN W. ACKROYD, *Chief of Police*

590 Jarvis Street
Toronto, Ontario
Canada. M4Y 2J5

(416) 967-2222.

Please reply attention of
Executive Services

Example of Decision of Chief's Designate

File No. [redacted]

December 29, 1982

[redacted]
Toronto, Ontario.
M4L 2J1

Dear Sir:

This is to advise that your allegations against the members of this Force listed below, have been investigated by the Public Complaints Investigation Bureau:

[redacted]

The Bureau's investigation has been reviewed by me in my capacity as Complaint Review Officer, and following are my comments and finding:

Allegation No. 1

You allege that [redacted] kicked in the door with his gun drawn.

Comments:

[redacted] denies this. He says that when he was half through the open door, you slammed it on his chest. In the livingroom, he saw you go for something on your side. He twice demanded you put your hands forward, but you didn't. The officer then unholstered his revolver. He states that you then put both hands forward and seeing that you had nothing in your hands, he re-holstered his gun.

The officer had reasonable and probable grounds to believe that your driver's licence was under suspension. He had stopped you the previous day driving a motor vehicle. The Highway Traffic Act, Section 35, makes it an offence to drive a motor vehicle if your licence is suspended.

Section 190 of the Highway Traffic Act gives an officer the power to arrest, without warrant, a person who he believes on reasonable and probable grounds has committed the above offence.

Continued - 2.

Comments re Allegation No. 1 - Continued.

Section 246 of the Criminal Code pertains to the offence of "Assault Police".
Section 25(1) of the Criminal Code justifies the use of as much force as is necessary to enforce the law.
The Metropolitan Toronto Police Rules and Regulations and The Police Act govern when an officer may use his service revolver.

Allegation No. 2

You allege that [redacted] kicked you down the steps on the front path of the house.

Comments:

[redacted] denies this allegation and his denial is corroborated by

A witness who saw the incident states that [redacted] walked you down the steps to the car.

Allegation No. 3

You allege that while being transported to the station, you were beaten in the back seat of the police car.

Comments:

[redacted] denies this. He states that you went berserk in the car and had to be held down all the way into the station. [redacted] corroborate [redacted] denial.

Allegation No. 4

You allege that when you arrived at [redacted] you were assaulted by other officers after which you were taken upstairs.

Comments:

[redacted] states that upon arrival at [redacted] he took you to the Officer in charge and then up to the Criminal Investigation Office. He denies assaulting you and his denial is corroborated by [redacted]

The Officer in charge states that you told him you had been fighting with the officer who arrested you and had a sore chest. You made no mention of having been beaten in the car or at the station.

The investigating Sergeants asked you how you injured your ribs and you told them that you had fallen down the stairs. You made no complaint to them of having been beaten.

While making your complaint at the Complaint Bureau, you said that you resisted the officer's attempt to arrest you.

Continued -

Finding:

Based on the evidence available, I find that no action is warranted against the police officers.

If you are not satisfied with my finding, you have the right to request a further review of your complaint by contacting Mr. S. Linden, Q.C., the Public Complaints Commissioner. His office is located at 157 Bloor Street West, Toronto, Ontario, M5S 1P7.

Yours very truly,

J. Noble,
Deputy Chief of Police,
Complaint Review Officer.

JN:wm

Copies to: ✓Public Complaints Commissioner.
[redacted]

APPENDIX III

Example of Report of the Public Complaints Commissioner after a Review

Investigation of a Complaint

pursuant to

The Metropolitan Police Force Complaints Project Act, 1981

Reference No: 123/45/83

Complainant: Randolph V. Marler

Investigator: Mr. John Alphabet

REPORT

The names of individuals, ships etc. in the following report have been changed. Except for that, the report is accurate.

OFFICE OF THE PUBLIC COMPLAINTS COMMISSIONER

COMPLAINANT: Randolph V. Marler DATE:

By letter dated May 11, 1982, Mr. Randolph V. Marler registered a complaint against Staff Sergeant Alpha and other officers with the Metropolitan Toronto Police Force subsequently identified as Sergeant Beta, Sergeant Gamma, Sergeant Delta and Sergeant Epsilon. In addition, the incident which precipitated the complaint involved two other officers with the Toronto Port Police.

Mr. Marler's complaint arose out of an incident that occurred on April 14, 1982, at approximately 12:45 p.m. on board the "Queen Elizabeth" owned by the A.B.C. Ship Lines. His allegations were investigated by a Staff Sergeant of the Public Complaints Investigation Bureau and on the basis of this investigation, the Acting Deputy Chief of Police determined that no action was warranted against any police officer with the Toronto Force.

By letter dated October 29, 1982, Mr. Counsel requested a review pursuant to Section 15(1) of the Metropolitan Police Force Complaints Project Act, 1981, on behalf of his client, Mr. Marler. Subsequently, by letter dated November 1, 1982, I informed the Chief of Police of the request for review and at the same time requested a photocopy of the contents of the Bureau's investigative file. The requested documentation was received by this office by November 5, 1982, and I have reviewed the contents.

It appears that the Bureau's investigation consisted of interviewing the complainant, interviewing and reviewing reports submitted by Sergeants Epsilon, Delta and Gamma of the "A Squad" and Sergeant Beta and Staff Sergeant Alpha of the

"B Squad". In addition, the two officers with the Port Police were interviewed as well as the shore captain of the A.B.C. Ship Lines, the captain of the "Queen Mary" and several witnesses aboard the ship. Medical information regarding the complainant's alleged injuries was also reviewed.

My investigator has re-interviewed the complainant, Sergeants Beta and Epsilon, one of the officers with the Port Police, and the civilian witnesses interviewed by the Bureau. Inspector C.C. of the Niagara Regional Police Force as well as additional civilian witnesses were also interviewed. Relevant documents including a copy of the warrant for the arrest of a Randolph Victor Marler as well as the company and medical records for Randolph V. Marler were also examined.

The incident which precipitated Mr. Marler's complaint is briefly summarized as follows:

> On Tuesday, April 13, 1982, a warrant was issued for the arrest of one "Randolph Victor Marler" wanted as a result of a stabbing of a female in the city of Port Colborne, Ontario. Acting on information received from an anonymous caller, Inspector C.C. of the Niagara Regional Police Force informed Sergeant Beta, "B Squad", Toronto Police Force, that Marler was working on a ship docked in Toronto Harbour. Based on the knowledge that Marler's background included shooting the Deputy Attorney General of Manitoba (1969) and armed robbery involving a shoot-out with police and the wounding of an officer (Huntsville, 1975), Inspector C. stressed that the wanted man would in all probability be armed, that he was very dangerous, and should be approached with extreme caution. He provided Sergeant Beta with a physical description of the suspect, including mention of a tattoo on his right leg.

> Sergeant Beta then contacted the Toronto Port Police with this information and requested their assistance. A Port Police officer telephoned the A.B.C. Ship Lines to confirm the tip that Marler was aboard a ship and learned that a man named Randolph Marler was serving as chief engineer of the "Queen Mary" docked in Toronto Harbour. Officers with the "B Squad" and "A Squad", along with two officers with the Port Police, met at Pier 35, and it was arranged that the Port Police officers should board the vessel first and make appropriate enquiries of the captain regarding the suspect. Once on deck, the two officers were approached almost immediately by a man who offered them his assistance and identified himself as Randolph Marler, chief engineer. Mr. Marler was quickly "directed" by one of the Port Police officers toward the rail and by a pre-arranged signal, the other officers were waved aboard. Mr. Marler was then handcuffed, arrested, and told he was being charged with first-degree murder.
>
> In a nearby cabin he was searched, and his legs checked for the identifying tattoo. After questioning Mr. Marler, the officers removed the cuffs and took him to headquarters for finger printing. This confirmed that he was not the wanted party and Mr. Marler was subsequently released and returned to his ship.

Mr. Marler's first complaint arising from this incident is that a totally inadequate investigation was done prior to approaching and arresting him as the wanted man. When the Port Police officer called his head office and learned that Randolph Marler was aboard the "Queen Elizabeth" as chief engineer, he made no further enquiries other than to state this was a very serious matter. This is confirmed by the shore captain who received his call.

When interviewed by my investigator, Mr. Marler stressed that the Port Police were thus remiss in their responsibility to determine if they were identifying the correct "Randolph Marler". He feels that with the knowledge that he, the Randolph Marler on the "Queen Mary" was chief engineer, and aware of the significance of that position, the officer then should have had some doubt as to whether he had the right man. Mr. Marler feels that the officer should have made a more thorough investigation regarding his full name and address, his physical description or his work record. Such information might have prevented the next stage of the investigation from becoming an unpleasant and embarrassing experience for the complainant.

I agree with the complainant that it is unfortunate that a more thorough investigation was not made by the Port Police officer at this initial stage of the incident. One must sympathize with Mr. Marler in his concern that he is so easily identified in the officer's mind as a murder suspect, when he holds a position of considerable responsibility and has a longstanding and excellent record of employment. However, as the decision of the Acting Deputy Chief indicates, at the time of this incident the Port Police did not come under the jurisdiction of the Toronto Police Force and thus no action could be taken against these officers.

Mr. Marler further complains that unnecessary and unwarranted force was used at the time of his arrest. This complaint relates primarily to the way in which he was first approached and handcuffed, and later questioned by the officers. In his letter of May 11, 1982, Mr. Marler states that, having identified himself to the (Port Police) officer, he "got behind me, put his left hand on my left shoulder and drove his right hand into my right trouser pocket where my wallet was". (When interviewed by my investigator, Mr. Marler wished it noted that he did not say that the officer "grabbed" his wallet as is indicated in the Acting Deputy Chief's letter). Mr. Marler goes on to say that he realized something was wrong but had no idea what was happening; he was now aware of more (officers) and a gun. He states that from nowhere came a pair of handcuffs, and as a result of his arm being grabbed and twisted behind his back while he was being handcuffed, his right arm was injured, and he needed medical attention and eventually time off work. He also adds that he "lost a lot of sleep just thinking about all those men with guns and no more intelligence than they proved they have. I am positive that if I have had as much as reached for my handkerchief to blow my nose, I would have been shot."

In his statement, Sergeant Epsilon identifies himself as the officer who told Mr. Marler that he was under arrest for first-degree murder, and placed the handcuffs on him, but he adds that he had "no difficulty in placing the cuffs on him" and that at no time did he use any undue force on the complainant. When interviewed by my investigator, Sergeant Epsilon stated that when he boarded the ship he was carrying a shotgun in one hand, held down towards the water, as was Sergeant Gamma, and that when he placed the cuffs on Mr. Marler, he was still holding the shotgun in his other hand. He added,however, that Mr. Marler appeared very co-operative and complied with no resistance, although he believed the complainant was quite nervous.

The statements of all the other officers present appear to agree with that of Sergeant Epsilon. They all indicated that Mr. Marler, although at first nervous and agitated, offered no resistance when he was handcuffed. He appeared to be very co-operative and at the time he was handcuffed he did not indicate that he was in any discomfort or had suffered any injury. However, later while being questioned and searched in the cabin, he did indicate that the cuffs were too tight and these were checked by one of the Port Police officers.

When interviewed by my investigator, Mr. Marler pointed out that once he had identified himself to the two Port Police officers everything happened so fast and he was so shocked by what was happening to him, that he neither had the opportunity nor in view of the guns would he have considered being anything but co-operative. Indeed, he felt that the fact that he quite willingly identified himself, and did co-operate fully, should have indicated to the officers that he was probably not the suspect and that the cuffs and the force used in questioning him were unnecessary. Moreover, he also felt that had the officers been more willing to listen to his explanation or those of the captain, or his fellow crew members, several of whom were now aware of the situation, the matter could have been cleared up more agreeably.

When interviewed by my investigator, these witnesses all indicated that they attempted to explain to the officers that Mr. Marler could not be the man wanted as he had been aboard the ship all the previous day; however, the officers ignored them. Several witnesses indicated that they found the officers' guns very intimidating and the officers' manners unnecessarily harsh and abrupt. They also indicated that Mr. Marler appeared to be very nervous.

Mr. Marler further alleges that while he was being questioned in the cabin, one of the officers, subsequently identified as a Port police officer, "kept hitting my ribs on my left side with his elbow", and that his leg was twisted while it was being examined. The Port police officer denies that Mr. Marler was questioned unduly harshly, and the statements of the other officers present indicate that Mr. Marler lifted his own leg up himself. Since only the officers and Mr. Marler were present in the cabin there is no further evidence to support or deny the complainant's allegation in this regard.

The evidence indicates that after questioning Mr. Marler further in the cabin, and after a check of his leg failed to reveal the identifying tattoo, the handcuffs were then removed from Mr. Marler. The officers then requested that in order to clear the matter up completely, Mr. Marler attend police headquarters with them and have his fingerprints checked. All officers' statements indicate that Mr. Marler did not appear to object to this.

When interviewed, Mr. Marler indicated that he did not feel that he was given much choice with regard to going to police headquarters. However, since he appeared to the officers to be agreeable to accompanying them, it cannot now be determined what would have happened had he refused to go.

With regard to Mr. Marler's complaint of injury to his right arm as a result of the force used in handcuffing him, the medical evidence appears to indicate that Mr. Marler did indeed suffer some discomfort after the incident as a result of a muscle strain above the right elbow. He indicated his discomfort to several of his associates and this is confirmed in their statements. There is no evidence however that Mr. Marler took time off work immediately after the incident. When interviewed, Mr. Marler explained to my investigator that this was because he was most anxious to take over his next position as chief engineer of the "Queen Victoria", sister ship to the "Queen Mary". He indicated that if he had not assumed his new duties immediately he might have lost that position. The statement from the captain of that vessel indicates that Mr. Marler's "bad elbow" hampered his work aboard the ship when manual labour with heavy machinery was required. Mr. Marler himself indicated that he eventually did take time off work when circumstances permitted.

It would appear that when Mr. Marler was returned to his ship after the trip to headquarters confirmed that he was not the suspect, Sergeant Alpha gave Mr. Marler his card and he and the complainant parted amicably. Nevertheless, when interviewed by my investigator, Mr. Marler expressed the additional concern to his original complaint that after his release, a follow-up call was not made to his employer by the police officers to explain the incident. He noted that if this incident had happened to an ordinary seaman and no explanation was received by his employer, it might have affected his chance for further employment.

After considering all the evidence associated with this unfortunate incident, I find myself in considerable sympathy with the complainant. Although the circumstances of his arrest must have both shocked and alarmed him, nevertheless he appeared to have handled an unpleasant siaution with remarkable control. It would appear that the concerns which led to his complaint developed after Mr. Marler had some time to consider what might have happened had he not been so co-operative. In addition, the physical discomfort which he suffered, though not sufficient to keep him from the challenge of his new position, also served to remind him that he had indeed been the victim of unfortunate and unusual circumstances. There may be some validity to his assertion that the situation might have been different had the Port Police officers investigated more fully the identity of their "suspect"; however, as their actions do not fall under the jurisdiction of this office, I can offer no further comment. It would then appear that given the information upon which the Toronto police officers were acting, they were prudent in taking the action they did when arresting a suspect whom they had reason to believe was extremely dangerous and possibly armed. Thus, I find that I must agree with the decision of the Acting Deputy Chief of Police that no action is warranted against any officer with the Toronto Police Force.

I would, however, like to comment on Mr. Marler's concern that there was no follow-up to this incident from the Police Force to his employer. It appears to me that common courtesy should have been required that the Police department provide some clarification of the incident to the employer either by means of a letter or phone call, to ensure that the complainant suffer no further embarrassment. Furthermore, though I commend Staff Sergeant Alpha for his initiative in this particular situation, I feel that in an incident like this, some more formal acknowledgement from the Department, of the distress and inconvenience caused a citizen along with an explanation as to why in fact the officers acted as they did in carrying out their duty, would be appropriate.

Having regard to all of the foregoing comments, I am satisfied that no further action be taken in this matter.

SIDNEY B. LINDEN
Public Complaints Commissioner

SBL/vmz

APPENDIX IV(a)

Address all correspondence to the Chief of Police

Metropolitan Toronto Police

JOHN W. ACKROYD *Chief of Police*

590 Jarvis Street
Toronto, Ontario
Canada M4Y 2J5

(416) 967-2222

Please reply attention of

Executive Services.

File No. 19355

October 12, 1983

Mr. Sidney B. Linden, Q.C.,
Public Complaints Commissioner,
157 Bloor Street West,
TORONTO, Ontario.
M5S 1P7

Dear Sir:

Re: Morrish Road Incident

I have been asked by Chief John Ackroyd to acknowledge and reply to your letter of October 4, relative to our response to your recommendations.

1. On September 2, 1983, Chief Ackroyd made a news release and later in the day, held a press conference, apologizing for the conduct of some members of our Force. The press conference was attended by representatives from the press, television and radio.

2. On September 12, 1983, I forwarded letters of apology to all but one of the persons who registered complaints. The lone exception is a person who has commenced an action against Chief Ackroyd and the Force. Metro Legal Department attempted to settle the matter, but the plaintiff declined. The matter will be going to trial and we were, therefore, requested by Metro Legal, not to make an apology in this case.

3. Five persons instituted claims against the Force, in Small Claims Court. All five have been settled through Metro Legal Department and did not go to trial. Refer to the previous response, relative to an action, still pending, in the County Court.

..........2

4. A reminder has been published in Routine Orders, relative to the existing regulations pertaining to the wearing of police caps and badges, as well as identification numbers.

5. Our Operational Planning Unit is reviewing our procedure on "Disorderly Crowds". As I read through your file on Morrish Road, I made notes of areas which could be improved or addendums made in our current procedure. A memo setting out 11 points was forwarded by me, to Operational Planning, included in which was a recommendation for additional supervisors.

6. Two of my recommendations pertained to more mitre sets being made available at such incidents, as well as more upward, downward and lateral communication at the scene.

7. Another of my recommendations was that upon arrival at the scene, all personnel, as well as being instructed on the basic strategy, also be advised not to act unless directed by a supervisor.

8. Another recommendation was that each supervisor appoint a constable to keep accurate and complete notes of the event.

9. All officers present at Morrish Road attended a refresher course on crowd control and baton training, at our Police College.

Police officers attend our Police College every three years on a 13 day in-service course. Other courses are held touching on such subjects as dealing with juvenile offenders, drug investigation courses, plainclothes duties, investigative techniques, instructional techniques, etc. In the last few years, we have instituted courses which all personnel were required to attend, such as policing a multi-cultural society, crisis intervention, use of the Tonfa baton, and currently, a course on C.P.R. (cardio pulmonary rescusitation). While it is necessary to furnish all personnel with not only basic, in-service and special training courses, a balance must be struck with operational requirements, particularly in a period of budget restraints. It is, therefore, not practical at the present time, to increase in-service training.

Yours truly,

J. Noble

J. Noble,
Deputy Chief of Police,
Executive Services.

JN:mc

APPENDIX IV(b)

The following letter was in response to a recommendation made by the P.C.C., following a review of a complaint involving a citizen who was arrested for "breach of the peace." The police force, after seeking the advice of the Attorney General's office, agreed with the Commissioner's recommendation and implemented the routine order that is referred to in the letter set out below.

Address all correspondence to the Chief of Police

Metropolitan Toronto Police

JOHN W. ACKROYD, Chief of Police

590 Jarvis Street
Toronto, Ontario
Canada, M4Y 2J5

(416) 967-2222

Please reply attention of
Executive Services

File No. ....

November 22, 1983

Mr. S. Linden, Q.C.,
Public Complaints Commissioner,
157 Bloor St. West,
Toronto, Ontario.
M5S 1P7

Dear Mr. Linden:

Further to our recent conversation, I am enclosing a copy of Routine Order No. 699 of May 25, 1983, pertaining to "Breach of the Peace".

Yours very truly,

J. Noble,
Deputy Chief of Police,
Complaint Review Officer.

JN:wm
Encl.

METROPOLITAN TORONTO POLICE

HEADQUARTERS

ROUTINE ORDERS

by

CHIEF OF POLICE JOHN W. ACKROYD

590 Jarvis Street
Toronto, Ontario
M4Y 2J5

CONFIDENTIAL

BREACH OF THE PEACE

The Metropolitan Toronto Police Force is in receipt of advice from the Attorney General's office regarding Section 31 of the Criminal Code which describes a peace officer's power to arrest for "breach of the peace."

Members are hereby reminded that Section 31(1) of the Criminal Code defines the police officer's power to arrest for breach of the peace, but does not create an offence for which a person can be convicted.

It provides that:

> "Every peace officer who witnesses a breach of the peace and everyone who lawfully assists him is justified in arresting any person whom he finds committing the breach of the peace or who, on reasonable and probable grounds, he believes is about to join in or renew the breach of the peace."

The definition which has been adopted by the Supreme Court of Canada is that quoted in Frey v. Fedoruk (1950) 97 C.C.C. 1 which states:

> "A breach of the peace takes place when either an actual assault is committed or an individual or public alarm and excitement is caused. Mere annoyance or insult to an individual, stopping short of actual personal violence is not a breach of the peace."

The cases, however, are not completely clear as to the circumstances in which it is appropriate to arrest for breach of the peace as some go further than others. Based on the recent decision of Regina v. Lefevre (1982) 67 C.C.C. (2d) 446 and R. v. Atkinson (1981) 58 C.C.C. (2d) 215, it would now seem to be clear in the eyes of the law that a simple noisy party or trespass without violence or alarm or threat of violence or alarm would not fall within the scope of Section 31.

As such, the Attorney General's office has advised us that a peace officer, where possible, should arrest a person under Section 450 of the Criminal Code for a specific offence rather than rely on the rather uncertain interpretation of Section 31. Section 450(1)(a) also authorized a peace officer to arrest a person without warrant if, on reasonable and probably grounds, he believes that a person is about to commit an indictable offence.

It is now clear that in the future, violence whether actual or apprehended, will have to be an essential element before one can arrest a person for "breach of the peace."

Members are, therefore, advised that in most circumstances Section 450(1) of the Criminal Code will apply and unless the conduct satisfies the above definition of "breach of the peace," the police officer should arrest under Section 450(1).

APPENDIX V(a)

contact contact contact contact

the Public Complaints Commissioner

A civilian service set up
to resolve disputes between
You and Your Police.

Sidney B. Linden, Q.C.
Public Complaints
Commissioner

During the course of this pilot project I am hopeful that I will be able to count on the support of the citizens of Metropolitan Toronto, the Metropolitan Police Force and the Metropolitan Toronto Police Association.

I am confident that the expressions of goodwill received since my appointment as Public Complaints Commissioner will continue to provide a foundation for an atmosphere of co-operation and mutual respect that will ensure the success of this unique experiment.

Sincerely,

SIDNEY B. LINDEN, Q.C.
PUBLIC COMPLAINTS COMMISSIONER

Mr. Linden is a native of Toronto who, until his appointment as Public Complaints Commissioner, was a prominent member of the criminal bar and a well-known labour arbitrator. He was General Counsel to the Canadian Civil Liberties Association and served on its Board of Directors. He was Vice-President of the Criminal Lawyers Association and also active on the Legal Aid Committee of the Law Society of Upper Canada.

Questions & Answers about police complaints in Metropolitan Toronto

New procedures are now in place for handling complaints from members of the public against police officers on the Metropolitan Toronto Police Force. This new system is a marked departure from the previous one where the police alone were responsible for these matters.

A citizen can now lodge a grievance directly with an independent civilian who is not connected with the police in any way. This person, the Public Complaints Commissioner, has the power to do his own investigation, completely separate from that conducted by the police. He is responsible for making sure that all complaints concerning allegations of misconduct are dealt with promptly and fairly.

As well, he may order a public hearing by the newly established Police Complaints Board. The members of this Board are also independent civilians.

The Public Complaints Commissioner is in a position to identify those police practices or procedures which may be particularly productive of citizen complaints and he can recommend that appropriate changes are made to remedy these situations.

To assist the public, the Office of the Public Complaints Commissioner has assembled answers to the following common questions often put to it about the Metropolitan Police Force Complaints Project Act, 1981.

Question

Where do I make a complaint about the conduct of a police officer on the Metropolitan Toronto Police Force?

Answer

You may make your complaint at any one of the following locations:

a) the Office of the Public Complaints Commissioner, 157 Bloor Street West, Toronto, Ontario M5S 1P7, telephone: 963-1141.

b) the Metropolitan Toronto Police Public Complaints Investigation Bureau, 3080 Yonge Street, Toronto, Ontario M4N 3N1, telephone: 967-2367.

c) any police station in Metropolitan Toronto (telephone 967-2222 for the station closest to you).

Question

When does the Public Complaints Commissioner become involved with my complaint?

Answer

IMMEDIATELY. No matter where you make your complaint, a copy is sent to the Office of the Public Complaints Commissioner. He monitors the investigation from the start.

Question

Who will investigate my complaint?

Answer

Initially, your complaint will be investigated by a police officer from the Public Complaints Investigation Bureau of the Metropolitan Toronto Police Force. The Bureau is a separate unit within the Force.

If it is possible for your complaint to be resolved informally, the officer in charge of the Bureau may attempt to do so, but only if you and the police officer involved agree.

Question

Can the Office of the Public Complaints Commissioner investigate my complaint?

Answer

YES. The Public Complaints Commissioner can conduct his own civilian investigation 30 days after you make your complaint. In some situations, the Public Complaints Commissioner can start his own investigation immediately.

Question

When do I find out about the status of my complaint?

Answer

In general, within 30 days of making a complaint, you will receive an interim report on the investigation done up to that time. You will also receive further reports during the course of the investigation and a final report when it is completed. All of these reports are in writing.

Question

What happens after the final investigation report is made?

Answer

The Chief of Police will review the matter, decide what action, if any, is to be taken, and give written notice of his decision to you, the Public Complaints Commissioner, and the police officer concerned.

Question

What if I am not satisfied with the decision made by the Chief of Police?

Answer

You may ask the Public Complaints Commissioner to conduct a review. He may order that a public hearing be held by the Police Complaints Board, if he believes that it is in the public interest to hold such a hearing.

Question

What is the Police Complaints Board?

Answer

The Police Complaints Board is a group of civilians specifically appointed to conduct hearings into citizens' complaints about the conduct of police officers on the Metropolitan Toronto Police Force. The Public Complaints Commissioner is the Chairman of the Board and he assigns members of the Board to conduct these hearings.

Question

Do I have the right to attend the Police Complaints Board hearing and take part in it?

Answer

YES. You will be notified in writing of the date of the hearing. A lawyer will present the case to the Board but you may choose to be represented by your own lawyer or an agent. You will also be given a chance, before the hearing, to examine any written evidence or any report that will be given in evidence at the hearing.

Question

If the Police Complaints Board finds that the police officer is guilty of misconduct, what penalties can it impose?

Answer

The penalties that can be imposed by the Police Complaints Board depend on the nature of the misconduct. The maximum penalty that the Board can impose is dismissal of the police officer from the Metropolitan Toronto Police Force.

Question

What if I want to complain about a police officer who does not belong to the Metropolitan Toronto Police Force?

Answer

Consult a member of the police force concerned, the local board of commissioners of police or the local municipal council. You may also contact the Ontario Police Commission, 25 Grosvenor Street, Toronto, Ontario M4A 2G9, telephone: 965-6071.

Question

What if I want to charge a police officer with a criminal offence or sue the police officer in the civil courts?

Answer

Your right to take either of these alternatives is not affected by this new complaints procedure.

You may charge a police officer with a criminal offence by attending at the office of a Justice of the Peace. For the office nearest you, telephone 965-7541.

If you want to sue a police officer, you should contact a lawyer.

All civil suits and some criminal charges must be started within six months of the date the incident occurred.

Question

Where can I get more information about the Metropolitan Police Force Complaints Project Act?

Answer

You can obtain a copy of the Act from the Ontario Government Bookstore, 880 Bay Street, Toronto, Ontario, telephone: 965-2054.

As well, you can telephone the Office of the Public Complaints Commissioner at 963-1141.

If you make a complaint, you will be given a document that sets out the procedures that are followed and your rights under the Act.

The Metropolitan Police Force Complaints Project Act, 1981, was proclaimed December 21, 1981. The project is funded by the Ontario Ministry of the Attorney General and the Municipality of Metropolitan Toronto.

The Office of the
Public Complaints Commissioner

157 Bloor Street West, Toronto, Ontario M5S 1P7
Telephone: 963-1141

APPENDIX V(b)

own lawyer. The maximum penalty the Board can impose is dismissal of the police officer from the force.

An appeal of the Board's decision can be made to the Divisional Court.

(Persons wanting more information about how to lodge a complaint can contact the Office of the Public Complaints Commissioner at 963-1141 or contact the Law Society's Dial-a-Law program at 947-3333.)

028 (2/84)

Office of the Public Complaints
Commissioner, 157 Bloor Street
West, Toronto, Ontario, M5S 1P7.

963-1141

HOW TO FILE A POLICE COMPLAINT

A member of the public with a complaint against a Metropolitan Toronto police officer may make the complaint at any police station within Metro, to the Public Complaints Investigation Bureau of the police, or to a civilian agency, the Office of the Public Complaints Commissioner. The civilian Commissioner receives a copy of every complaint no matter where it is made.

The complaint will be investigated initially by the Police Force's Investigation Bureau. The officer from the Bureau may attempt to resolve the complaint informally, but only if the complainant and the subject officer agree in writing to the resolution. Informal resolutions are reviewed by the Public Complaints Commissioner.

If no informal resolution is achieved, the Bureau will further investigate the complaint and must provide written reports every thirty days until the investigation is completed. These reports are sent to the complainant, the Chief of Police, the subject officer and the Public Complaints Commissioner.

In some circumstances the Commissioner may decide to conduct his own investigation.

Complainants may contact the Commissioner's office if they are dissatisfied at any time with the way a complaint is being handled.

At the conclusion of the investigation the Chief of Police will review the reports and may order further investigation; decide no further action is warranted; cause a criminal charge to be laid against the police officer and refer the matter to the Crown attorney for prosecution; refer the matter to the civilian Police Complaints Board for a hearing; cause disciplinary proceedings to be taken against the police officer under the Police Act; or Counsel or caution the police officer regarding his conduct.

Complainants who are not satisfied with the decision of the Chief of Police may request the Public Complaints Commissioner to review the matter further.

The Public Complaints Commissioner and his staff have broad powers to investigate. They can demand documents, subpoena individuals for questioning, and apply to a Justice of the Peace for a search warrant.

After his review, the Commissioner can order a public hearing before the independent, civilian Police Complaints Board if he feels that would be in the public interest.

One-third of the Board's members have had training in law and have been recommended for appointment by the Attorney General; one third on the recommendation of Metro council, and one third on the joint recommendation of the Metropolitan Board of Commissioners of Police and the Metropolitan Toronto Police Association. One of each group of appointees sits on each major hearing; whereas the legally-trained member sits alone on minor hearings.

The complainant will be notified of the hearing date. Counsel for the Board will present the case to the Board, but the complainant may choose to be represented by his or her

APPENDIX V(c)

Help us make it work.

If you have a complaint against the Metropolitan Toronto Police Force a new, independent service is available to help you. This service, headed by a civilian commissioner, is designed to resolve disputes between the police and the public they serve and protect.

Under the new law, passed by the Ontario Legislature, you can:

- Lodge a complaint directly with the office of the Public Complaints Commissioner.
- Get a written interim report on the status of the complaint if it is not resolved within thirty days.
- Get a final written report at the conclusion of the investigation.

The commissioner may direct a completely independent investigation into your case. If the commissioner considers it in the public interest, he may order a full public hearing before a civilian review board.

R. Roy McMurtry
Attorney General

Paul Godfrey
Metropolitan Toronto
Chairman

The Commissioner

He's Sidney Linden, Q.C., former general counsel to the Canadian Civil Liberties Association and Vice-President of the Criminal Lawyers Association and a citizen with a strong social conscience. He is the newly appointed independent Public Complaints Commissioner and his responsibility is to review all complaints against the police.

I have the highest regard for him as a civil libertarian and for his appointment. He is a most credible person and an excellent lawyer. – Dr. Dan Hill, Special Adviser to the Mayor's Committee on Race and Community Relations, Toronto

"I for one, have great confidence in Mr. Linden." – Alan Borovoy, Canadian Civil Liberties Association.

"... His reputation is excellent and completely acceptable." – Robert Nixon, Liberal M.P.P. and former Opposition Leader.

"The Council feels that Mr. Linden is a very capable criminal lawyer and will discharge his responsibilities with great awareness and with fair dealing." – Multicultural Council in Greater Toronto.

The system is set up to work for you. You have a personal contact. The essential ingredient is you. Help us make it work. For information please call 963-1141.

SANJH SAVERA 12.3.82. Page 6.

APPENDIX V(d)

ਇਸਨੂੰ ਨੇਪਰੇ ਚਾੜਨ ਵਿਚ ਸਾਡੀ ਮੱਦਦ ਕਰੋ

ਜੇ ਤੁਹਾਨੂੰ ਮਿਟਰੋਪੋਲੀਟਨ ਟਰਾਂਟੋ ਪੁਲੀਸ ਵਿਰੁਧ ਕੋਈ ਸ਼ਿਕਾਇਤ ਹੈ ਤਾਂ ਇਕ ਅਜਿਹੀ ਸੇਵਾ ਤੁਸੀਂ ਪ੍ਰਾਪਤ ਕਰ ਸਕਦੇ ਹੋ ਜੋ ਹੁਣੇ ਹੁਣੇ ਚਾਲੂ ਕੀਤੀ ਗਈ ਹੈ ਅਤੇ ਬਿਲਕੁਲ ਆਜ਼ਾਦ ਹੈ। ਇਹ ਸੇਵਾ ਪੁਲੀਸ ਅਤੇ ਲੋਕਾਂ ਦੇ ਵਿਚ ਪੈਦਾ ਹੋਏ ਝਗੜਿਆਂ ਨੂੰ ਨਿਪਟਾਉਣ ਲਈ ਹੋਂਦ ਵਿਚ ਲਿਆਂਦੀ ਗਈ ਹੈ ਅਤੇ ਇਕ ਸਿਵਲੀਅਨ ਕਮਿਸ਼ਨਰ ਦੁਆਰਾ ਇਸ ਦੀ ਪ੍ਰਤੀਨਿਧਤਾ ਕੀਤੀ ਜਾਂਦੀ ਹੈ।

ਉਨਟਾਰੀਓ ਪ੍ਰਾਂਤ ਦੀ ਵਿਧਾਨ ਸਭਾ ਦੁਆਰਾ ਜੋ ਨਵਾਂ ਕਾਨੂੰਨ ਪਾਸ ਕੀਤਾ ਗਿਆ ਹੈ ਤੁਸੀਂ ਕਰ ਸਕਦੇ ਹੋ ਜਿਵੇਂ–

ਉਨਟਾਰੀਓ ਪ੍ਰਾਂਤ ਦੀ ਵਿਧਾਨ ਸਭਾ ਦੁਆਰਾ ਜੋ ਨਵਾਂ ਕਾਨੂੰਨ ਬਣਾਇਆ ਗਿਆ ਹੈ ਉਸ ਅਨੁਸਾਰ ਤੁਸੀਂ ਸਿਧੇ ਪਬਲਿਕ ਕੰਪਲੇਂਟ ਕਮਿਸ਼ਨਰ ਦੇ ਦਫ਼ਤਰ ਵਿਚ ਆਪਣੀ ਸ਼ਿਕਾਇਤ ਦਰਜ ਕਰ ਸਕਦੇ ਹੋ।

ਜੇ ਤੁਹਾਡੀ ਸ਼ਿਕਾਇਤ 30 ਦਿਨਾਂ ਦੇ ਅੰਦਰ ਅੰਦਰ ਹੱਲ ਨਹੀਂ ਕੀਤੀ ਗਈ ਤਾਂ ਤੁਸੀਂ ਇਸਦੇ ਬਾਰੇ ਵੀ ਲਿਖਤੀ ਰਿਪੋਰਟ ਲੈ ਸਕਦੇ ਹੋ।

ਛਾਣਬੀਨ ਦੇ ਫ਼ੈਸਲੇ ਦੀ ਆਪਣੀ ਲਿਖਤੀ ਰਿਪੋਰਟ ਹਾਸਿਲ ਕਰੋ।

ਕਮਿਸ਼ਨਰ ਨੂੰ ਅਧਿਕਾਰ ਹੈ ਕਿ ਉਹ ਪੂਰੀ ਆਜ਼ਾਦੀ ਨਾਲ ਖੁਦ ਤੁਹਾਡੇ ਕੇਸ ਦੀ ਫਿਰ ਪੜਤਾਲ ਕਰੇ। ਜੇ ਕਮਿਸ਼ਨਰ ਇਸ ਸਿੱਟੇ ਤੇ ਪੁਜਦਾ ਹੈ ਕਿ ਮਾਮਲਾ ਲੋਕਾਂ ਦੇ ਵਿਚਾਰ ਅਧੀਨ ਲੈ ਜਾਣਾ ਚਾਹੀਦਾ ਹੈ, ਤਾਂ ਉਹ ਅਜਿਹਾ ਵੀ ਕਰ ਸਕਦਾ ਹੈ ਕਿ ਮਾਮਲੇ ਦੀ ਸੁਣਵਾਈ ਸਿਵਲੀਅਨ ਟ੍ਰਿਬਿਊਨਲ ਵਿਚ [illegible] ਕਰੇ।

ਪਹਿਰੇਦਾਰ

ਮਿਸਟਰ ਸਿਡਨੀ ਲਿੰਡਨ, ਜੋ ਕਿ ਕੈਨੇਡੀਅਨ ਸਿਵਲ ਲਿਬਰਟੀਜ਼ ਐਸੋਸੀਏਸ਼ਨ ਦਾ ਸਾਬਕਾ ਜਨਰਲ ਕੌਂਸਲ ਅਤੇ ਕ੍ਰਿਮੀਨਲ ਲਾਇਰਜ਼ ਐਸੋਸੀਏਸ਼ਨ ਦਾ ਮੌਜੂਦਾ ਪ੍ਰਧਾਨ ਹੈ। ਜੋ ਕਿ ਸਮਾਜਿਕ ਚੇਤਨਾ ਦਾ ਵਾਕਫ਼ ਅਤੇ ਚੰਗਾ ਗਿਆਨੀ ਹੈ। ਉਸਨੂੰ ਆਜ਼ਾਦ ਪਬਲਿਕ ਕੰਪਲੇਂਟ ਕਮਿਸ਼ਨਰ ਨਿਯੁਕਤ ਕੀਤਾ ਗਿਆ ਹੈ। ਉਸਦੀ ਡਿਊਟੀ ਹੈ ਕਿ ਉਹ ਪੁਲੀਸ ਵਿਰੁਧ ਲੋਕਾਂ ਦੀਆਂ ਸ਼ਿਕਾਇਤਾਂ ਦਾ ਨਿਪਟਾਰਾ ਕਰੇ।

"ਇਕ ਆਜ਼ਾਦ ਮਨੁਖ ਅਤੇ ਉਸਦੀ ਨਿਯੁਕਤੀ ਪ੍ਰਤੀ ਜੋ ਉਸਨੂੰ ਵਿਸ਼ੇਸ਼ ਮਾਨ ਦੀ ਨਿਗਾਹ ਨਾਲ ਵੇਖਦਾ ਅਤੇ ਵਿਚਾਰ ਕਰਦਾ ਹਾਂ ਉਹ ਇਕ ਉਚ ਕੋਟੀ ਦਾ ਵਕੀਲ ਅਤੇ ਚੰਗਾ ਸ਼ਖ਼ਸੀਅਤ ਦਾ ਮਾਲਕ ਹੈ"– ਡਾ: ਡੈਨ ਹਿਲ, ਸੀਨੀਅਰ ਅਡਵਾਈਜ਼ਰ ਟੂ ਦੀ ਮੇਅਰਜ਼ ਕਮੇਟੀ ਆਨ ਰੇਸ ਐਂਡ ਕਮਿਊਨਿਟੀ ਰੀਲੇਸ਼ਨਜ਼ ਟਰਾਂਟੋ।

"ਜੋ ਉਸ ਵਿਚ ਦ੍ਰਿੜ ਵਿਸ਼ਵਾਸ ਕਰਦਾ ਹਾਂ ਉਹ ਬੜੇ ਉਚੇ ਕਿਰਦਾਰ ਦਾ ਮਾਲਕ ਹੈ"। ਰੋਬਰਟ ਨਿਕਸਨ, ਲਿਬਰਲ ਐਮ.ਪੀ.ਪੀ. ਐਂਡ ਲੀਡਰ ਉਪੋਜ਼ੀਸ਼ਨ ਲੀਡਰ।

"[illegible] ਜਾਣਦੀ ਹੈ ਕਿ ਸਿਡਨੀ [illegible] ਸੁਲਝਿਆ ਹੋਇਆ ਵਕੀਲ ਹੈ ਅਤੇ ਉਹ ਆਪਣੀਆਂ ਜ਼ਿੰਮੇਵਾਰੀਆਂ ਪ੍ਰਤੀ ਇਮਾਨਦਾਰੀ ਨਾਲ ਨਿਭਾਏਗਾ"। [illegible], ਲੀਗਲ ਏਡ [illegible] ਟਰਾਂਟੋ।

ਇਹ ਪ੍ਰਣਾਲੀ ਤੁਹਾਡੇ ਭਲੇ ਲਈ ਚਾਲੂ ਕੀਤੀ ਗਈ ਹੈ। ਤੁਸੀਂ ਇਸ ਨਾਲ ਵਿਸ਼ਵਾਸ਼ਪੂਰਵਕ ਤੌਰ ਤੇ ਸੰਪਰਕ ਪੈਦਾ ਕਰ ਸਕਦੇ ਹੋ। ਇਸਨੂੰ ਨੇਪਰੇ ਚਾੜਨ ਲਈ ਸਾਡੀ ਮਦਦ ਕਰੋ ਤੁਸੀਂ ਹੀ [illegible] ਹੋ। ਪੂਰੀ ਜਾਣਕਾਰੀ ਲਈ ਫੋਨ ਕਰੋ 963–1141

R. Roy McMurtry
Solicitor General

Paul Godfrey
Metropolitan Toronto
Chairman

APPENDIX V(e)

Did you know... the Office of the Public Complaints Commissioner handles complaints about the Metropolitan Toronto Police?

If you have a complaint about a Police officer on the Metropolitan Toronto Police Force, you can now register that complaint directly with an independent, civilian agency. That agency is the Office of the Public Complaints Commissioner.

The Commission was designed to ensure that disputes between the citizens of Metropolitan Toronto and their police force receive prompt and thorough investigation. The agency is not connected in any way with the police force, and you can be confident your complaint will be dealt with in a fair and impartial manner.

If you're not satisfied with the resolution of your dispute, and the Commissioner feels it's in the public interest, he can order a public hearing of your complaint before the civilian Police Complaints Board. Members of the Board include respected judges, lawyers, religious and labour leaders, teachers and businessmen–people with a variety of cultural and racial backgrounds.

To arrange for a meeting with an investigator, or to find out more about the Office of the Public Complaints Commissioner, call 963-1141, or visit our office at 157 Bloor Street West (corner of Avenue Road and Bloor).

Help us make the system work for you.

Sidney Linden, Commissioner

Ontario

Roy McMurtry, Attorney General
William Davis, Premier

APPENDIX V(f)

Sapevi che... l'Ufficio del Public Complaints Commissioner tratta reclami a proposito della Metropolitan Toronto Police?

Se hai un motivo di reclamo su un ufficiale di Polizia in forza a Metro Toronto Police Force, ora puoi denunciare direttamente il problema presso una agenzia civile ed indipendente. Quell'agenzia e' l'Ufficio del Public Complaints Commissioner.

La Commissione e' stata istituita per assicurare che le dispute tra i cittadini di Metropolitan Toronto e la loro forza di polizia ricevano una equa e completa indagine. L'agenzia non e' in alcun modo collegata con la polizia, e tu puoi essere certo che la tua lamentela sara' trattata in modo corretto ed imparziale.

Se non sei soddisfatto con la conclusione della tua disputa, ed il Commissioner ritiene sia nell'interesse pubblico, egli puo indire un'udienza pubblica del tuo reclamo prima del Police Complaints Board civile. I membri del Board comprendono giudici stimati, avvocati, religiosi e leaders sindacali, insegnanti e uomini d'affari, con diversi backgrounds culturali e razziali.

Per contattare un investigatore, o per saperne di piu' a proposito dell'Ufficio del Public Complaints Commissioner, telefona al 963-1141 o visita il nostro ufficio al 157 Bloor Street West (angolo di Avenue Road e Bloor).

Aiutaci a far funzionare il sistema per te.

Sidney Linden Commissioner

Ontario
Roy McMurtry, Attorney General
William Davis, Premier

APPENDIX V(a)

Bathurst Heights Secondary School

640 Lawrence Avenue West,
Toronto, Ontario M6A 1B1
789-0551

February 16, 1984

Alice Murray,
Manager, Office and Public Relations,
157 Bloor Street West,
Toronto, Ontario M5S 1P7

Dear Ms. Murray,

We wish to take this opportunity to express the appreciation of Mr. Golden, our students and ourselves to you and your very able department for the excellent presentation given on February 14th and 15th.

Our students are now armed with knowledge of the procedure to be used should a problem occur. Of even greater importance, is the reassurance gleaned from the knowledge that there is a department in existence that will give satisfaction for injustices suffered at the hands of the police.

We do hope that we will have a further opportunity to meet in the near future.

Thank you.

Esther Halpern

Mr. J. McKay
Mrs. E. Halpern
Business Department

APPENDIX V(h)

YORK COMMUNITY SERVICES
1651 KEELE STREET. TORONTO M6M 3W2 · 653-5400
[redacted]
PRESIDENT, BARBARA JAFELICE
EXECUTIVE DIRECTOR JOAN MILLING

December 6, 1983

Ms. Judith Keene
Executive Assistant
The Office of the
Public Complaints Commissioner
157 Bloor Street West
Toronto, Ontario
M5S 1P7

Dear Judith:

I am writing to thank you and Steve Ginsberg for the excellent presentation (November 23, 1983) to our staff. We have referred clients to the Public Complaints Commission and so found it very helpful to have the role of the Commissioner's office and the process clarified. I'm sure this will help us in terms of determining future referrals.

I hope this most worthwhile venture does go beyond its "pilot" phase and wish you luck in your outreach efforts.

Sincerely,

Colin Hughes
Team Coordinator

CH:ac

LEGAL. MEDICAL. SOCIAL SERVICES

APPENDIX VI(a)

The Commission is not without its critics; for example, Clayton Ruby, a Toronto lawyer, complained in a letter to the Globe and Mail, that the complaints system was "designed to achieve nothing." However, two other Toronto lawyers responded to this criticism as follows:

GLOBE – JAN. 4/84 – Pg. 6

Police complaints

As a solicitor who has handled several cases involving the Public Complaints Commission, including the first hearing before the Police Complaints Board, I would like to disagree with the opinion advanced by Clayton Ruby (letter — Dec. 14).

Before the implementation of the pilot project under the Metropolitan Toronto Police Complaints Act, there was no effective, expeditious and inexpensive method for citizens to advance allegations of misconduct against police officers. Civil proceedings were expensive and cumbersome. In the criminal courts additional serious difficulties were faced by a complainant.

The new procedure [illegible] remedied many of these [illegible]s. It provides an easily accessible and highly visible forum for aggrieved persons. Although the initial investigation is carried out by members of the Metropolitan Toronto Police Department, if the citizen is dissatisfied with the conclusion reached by the chief of police as a result of the investigation, he or she may request the Public Complaints Commissioner to review the matter.

The commissioner has the power to review the matter and order a hearing. This is precisely what occurred in the Noble case, wherein the chief of police determined that there was no merit in the complaint. The office of the Public Complaints Commissioner investigated the matter, and was able to adduce additional and significant forensic evidence. On that basis, the matter went to hearing before the Police Complaints Board. After a lengthy hearing, there was a finding of misconduct against the police officer involved, resulting in his suspension for 14 days without pay.

The pilot project is an excellent beginning. Obviously, some fine-tuning is required. I agree with Mr. Ruby that the Police Complaints Board ought to have the power to award damages where misconduct is found. But to suggest that the pilot project has not accomplished anything is, in my view, overlooking a significant and positive advancement in the criminal justice process.

John A. Olah
Toronto

Complaint system

I am greatly perplexed by Clayton Ruby's letter (Dec. 14) denouncing the new police complaints system.

As one who has followed the development of the Public Complaints Commission since its inception (Dec. 21, 1981) and discussed its progress with lawyers whose clients have used the process, I can only conclude that it has made progress far beyond any initial expectation.

Indeed, the difference between the former system and the one which now prevails under Commissioner Sidney B. Linden is that between night and day. The previous system was utterly lacking in public accountability and so cloaked in secrecy that one might never know whether an investigation was conducted at all — and what, if any, steps had been taken.

Lawyers in those dark days were in the unfortunate position of having to advise clients not to trouble submitting their often serious grievances to that whitewashing process.

My only complaint is that citizens outside Metropolitan Toronto are being short-changed.

It is highly unfair that persons in Toronto get the benefit of this greatly advanced system for investigating and processing complaints against the police, while others, having the misfortune to be located elsewhere in the province, are stuck with the traditional, secretive, internal, police-controlled complaint system which prevails.

Harold J. Levy
Toronto

APPENDIX VI(b)

4 SHARE SEPTEMBER 24, 1983

EDITORIAL & OPINION

Office should be given green light

About a year and a half ago the Office of the Public Complaints Commissioner was established in Ontario as a three-year pilot project to deal with citizen complaints against the police. It was greeted with skepticism in some quarters.

According to Sidney Linden, the Public Complaints Commissioner, "when the project began, in view of the history of the subject matter, there was considerable misunderstanding and skepticism about how the new system would work."

From all indications it seems that the office of the Public Complaints Commissioner which has chalked up some early successes, is being accepted. However, within the black and West Indian community, and certainly in other ethnic communities, the commission seems to have very low visibility.

Very often we at SHARE received calls from readers who have run into problems with the police and who feel that their rights have been abused by the officers they had to deal with. We point out to these callers that the Office of the Public Complaints Commissioner exists and it is a place where they can lodge their complaints and where action will be taken.

Some individuals have taken our advice and have dealt with the commission, and have received favorable results. Others have seen the commission as another bureaucracy to protect the police from angry members of the public who feel that they have been wronged. This new complaint board has often been compared to the Public Complaints Board of the Metropolitan Toronto Police.

One of the images that the Office of the Public Complaints Commissioner had had to work hard at projecting is that this new system is independent of the police and is a place where civilian review of police conduct, once thought of as extraordinary, is occuring routinely.

According to Linden there are no quick answers to the very complicated question of police-community relations. He said that it should be viewed as a continuing situation and we must recognize that as long as there are policemen and civilians, incidents will occur. Therefore, it is essential that an agency such as the office of the Public Complaints Commissioner should exist within the community to deal with these incidents when they occur.

But, the office will not be successful if it is not used by enough citizens. We must remember that this office, created by the Metropolitan Police Force Complaints Act, 1981, is a pilot project to last three years. After that time it will be reviewed and evaluated and then a decision taken as to whether or not it should be extended for a further period, or permanently.

It is important and extremely necessary that this office be given the green light to serve beyond the three years. However, for this to happen it must be used as a forum to lodge complaints by those who feel they have been treated unjustly by the police.